



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SIXTH GENERAL ASSEMBLY**

**54TH LEGISLATIVE DAY**

**THURSDAY, MAY 21, 2009**

**10:31 O'CLOCK A.M.**

**SENATE**  
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The Senate met pursuant to adjournment.

Senator Jeffrey M. Schoenberg, Evanston, Illinois, presiding.

Prayer by Doctor Maryam Mostoufi, Islamic Society of Greater Springfield, Springfield, Illinois.

Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, May 20, 2009, be postponed, pending arrival of the printed Journal.

The motion prevailed.

### **LEGISLATIVE MEASURES FILED**

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 7 to Senate Bill 744

Senate Floor Amendment No. 2 to Senate Bill 1973

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to House Bill 810

Senate Floor Amendment No. 2 to House Bill 3641

### **JOINT ACTION MOTION FILED**

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 133

### **PRESENTATION OF RESOLUTIONS**

Senator Brady offered the following Senate Resolution, which was referred to the Committee on Assignments:

#### **SENATE RESOLUTION NO. 296**

WHEREAS, The Solheim Cup is a biennial trans-Atlantic team match play competition featuring the best United States-born players from the Ladies Professional Golf Association (LPGA) Tour and the best European-born players from the Ladies European Tour (LET); and

WHEREAS, The Solheim Cup will be held at Rich Harvest Farms in Sugar Grove from August 17-23, 2009; the event is expected to draw an estimated attendance of 150,000 spectators for the week; and

WHEREAS, The Solheim Cup will be a boon for the economy for the communities in the area, bringing people from around the world; local hotels, restaurants, and retail venues will benefit from this event; and

WHEREAS, The Solheim Cup will be broadcast worldwide and will bring the area in and around Kane County into the forefront of the international golf tourism arena; and

WHEREAS, The young people of the area will experience opportunities to meet role models from the LPGA and LET, and have various chances to interact and learn during this event; therefore, be it

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RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we recognize the many benefits of the 2009 Solheim Cup coming to the State of Illinois and support the event; and be it further

RESOLVED, That we declare August of 2009 as Solheim Cup Month in the State of Illinois; and be it further

RESOLVED, That a suitable copy of this resolution be presented to representatives of the LPGA and LET as symbols of our respect and esteem.

Senator Harmon offered the following Senate Resolution, which was referred to the Committee on Assignments:

**SENATE RESOLUTION NO. 297**

WHEREAS, In January of 2000, former Illinois Governor George Ryan declared a moratorium on executions in Illinois; before the moratorium, 13 death row inmates were exonerated and found innocent of the crimes for which they were originally sentenced to death; and

WHEREAS, Since 2000, six more death row inmates have been exonerated and found innocent of the crimes for which they were originally sentenced to death; most recently, Nathson Fields was acquitted on April 8, 2009; the current number of exonerations in Illinois is 19, and Illinois is second only to Florida in the number of exonerations from death row; and

WHEREAS, There is no safeguard to ensure that an innocent person will not be put on death row; the Illinois Commission on Capital Punishment formed by Governor Ryan in 2000 to study the death penalty in Illinois concluded that "no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to death"; and

WHEREAS, Despite the implementation of reforms to Illinois' death penalty system by both the Illinois General Assembly and the Illinois Supreme Court, there remains no sufficient safeguard against additional innocent persons being convicted of murder and sentenced to death; and

WHEREAS, The cost of the death penalty is prohibitive; the average cost of a trial in a federal death case is about 8 times that of a federal murder case in which the death penalty is not sought; every state that has done a cost study has found death penalty cases cost millions to hundreds of millions more than non-death cases, including cases in which the defendant receives life without parole; and

WHEREAS, A cost study done in the State of New Jersey found the death penalty has cost New Jersey taxpayers \$253 million more than the costs that would have been incurred in a system with a maximum sentence of life without parole; the study examined the costs of death penalty cases to prosecutor offices, public defender offices, courts, and correctional facilities, and the report's authors wrote that the cost estimate is "very conservative" because other significant costs uniquely associated with the death penalty were not available and, "from a strictly financial perspective, it is hard to reach a conclusion other than this: New Jersey taxpayers over the last 23 years have paid more than a quarter billion dollars on a capital punishment system that has executed no one" the report concluded; since 1982, there have been 197 capital trials in New Jersey and 60 death sentences imposed, of which 50 were subsequently reversed; there have been no executions, and 10 men are housed on death row; Michael Murphy, former Morris County prosecutor, remarked: "If you were to ask me how \$11 million a year could best protect the people of New Jersey, I would tell you by giving the law enforcement community more resources; I'm not interested in hypotheticals or abstractions, I want the tools for law enforcement to do their job, and \$11 million can buy a lot of tools"; and

WHEREAS, Death penalty cases are more expensive at every stage of the judicial process than similar non-death cases; death penalty cases cost more to try, hear, appeal, and incarcerate than non-death cases;

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a new study in the State of Maryland released by the Urban Institute on March 6, 2008 forecasted that the lifetime expenses of capitally prosecuted cases since 1978 will cost Maryland taxpayers \$186 million; the study estimates that the average cost to Maryland taxpayers for reaching a single death sentence is \$3 million - \$1.9 million more than the cost of a non-death penalty case; the study examined 162 capital cases that were prosecuted between 1978 and 1999 and found that those cases cost \$186 million more than what those cases would have cost had the death penalty not existed as a punishment; at every phase of a case, according to the study, capital murder cases cost more than non-capital murder cases; the 106 cases in which a death sentence was sought but not handed down in Maryland cost the state an additional \$71 million and those costs were incurred simply to seek the death penalty even though the ultimate outcome was a life or long-term prison sentence; and

WHEREAS, The Cook County Public Defender routinely depletes its annual funds to pay for capital cases before the end of the fiscal year, and without the funds, the office is unable to pay for the help of expert witnesses, as well as the other additional costs of a death penalty case; the Cook County Public Defender's 2009 allotment of \$1.75 million was exhausted this month, in large part because 60 percent of the money went to cover unpaid bills from 2008; and

WHEREAS, The State's budget for Fiscal 2009 includes \$10,642,100 for the Capital Litigation Trust Fund, created by the General Assembly in 2000; over the past six fiscal years, the Fund has been allocated just under \$89 million; nevertheless, the Fund's expenditures account for only part of the true cost of maintaining capital punishment in Illinois - a cost that is difficult to estimate without conducting a comprehensive cost study; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Illinois Criminal Justice Information Authority is directed to conduct a study of the costs of the death penalty in Illinois, including but not limited to the costs of seeking the death penalty, the costs of a capital trial, the costs of appeals, the costs of incarceration, and the costs of execution; and be it further

RESOLVED, That the Illinois Criminal Justice Information Authority is directed to conduct a parallel study of the costs of sentencing persons convicted of first degree murder to life imprisonment, so as to provide a direct cost comparison on the same level of detail as the costs of the death penalty; and be it further

RESOLVED, That the Illinois Criminal Justice Information Authority is directed to provide to the Senate a preliminary report of its study during the 2009 veto session and a final report of its study and recommendations no later than January 29, 2010; and be it further

RESOLVED, That the Illinois Criminal Justice Information Authority is authorized to expend for this study any appropriation or other funds that may be legally available for this purpose.

#### MESSAGE FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2090

A bill for AN ACT concerning government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2090

Passed the House, as amended, May 20, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 2090

AMENDMENT NO. 1. Amend Senate Bill 2090 by replacing everything after the enacting clause

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with the following:

"Section 5. The Civil Administrative Code of Illinois is amended by changing Sections 5-310, 5-315, 5-320, 5-325, 5-330, 5-335, 5-340, 5-345, 5-350, 5-355, 5-360, 5-362, 5-365, 5-370, 5-375, 5-385, 5-390, 5-395, 5-400, 5-405, 5-410, 5-415, and 5-420 as follows:

(20 ILCS 5/5-310) (was 20 ILCS 5/9.21)

Sec. 5-310. In the Department on Aging. The Director of Aging shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-315) (was 20 ILCS 5/9.02)

Sec. 5-315. In the Department of Agriculture. The Director of Agriculture shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Agriculture shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-320) (was 20 ILCS 5/9.19)

Sec. 5-320. In the Department of Central Management Services. The Director of Central Management Services shall receive an annual salary ~~as set by the Governor from time to time or an amount set by the Compensation Review Board, whichever is greater.~~

Each Assistant Director of Central Management Services shall receive an annual salary ~~as set by the Governor from time to time or an amount set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-325) (was 20 ILCS 5/9.16)

Sec. 5-325. In the Department of Children and Family Services. The Director of Children and Family Services shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-330) (was 20 ILCS 5/9.18)

Sec. 5-330. In the Department of Commerce and Economic Opportunity. The Director of Commerce and Economic Opportunity shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Commerce and Economic Opportunity shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

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

(20 ILCS 5/5-335) (was 20 ILCS 5/9.11a)

Sec. 5-335. In the Department of Corrections. The Director of Corrections shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Corrections - Adult Division shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 94-696, eff. 6-1-06.)

(20 ILCS 5/5-340) (was 20 ILCS 5/9.30)

Sec. 5-340. In the Department of Employment Security. The Director of Employment Security shall receive an annual salary ~~of~~ as set by the Governor from time to time or ~~an amount set by the Compensation Review Board, whichever is greater.~~

Each member of the Board of Review shall receive \$15,000.

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-345) (was 20 ILCS 5/9.15)

Sec. 5-345. In the Department of Financial Institutions. The Director of Financial Institutions shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Financial Institutions shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-350) (was 20 ILCS 5/9.24)

Sec. 5-350. In the Department of Human Rights. The Director of Human Rights shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-355) (was 20 ILCS 5/9.05a)

Sec. 5-355. In the Department of Human Services. The Secretary of Human Services shall receive an annual salary as set ~~by the Governor from time to time or such other amount as may be set~~ by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Secretaries of Human Services shall each receive an annual salary as set ~~by the Governor from time to time or such other amount as may be set~~ by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-360) (was 20 ILCS 5/9.10)

Sec. 5-360. In the Department of Insurance. The Director of Insurance shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Insurance shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-362)

Sec. 5-362. In the Department of Juvenile Justice. The Director of Juvenile Justice shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 94-696, eff. 6-1-06.)

(20 ILCS 5/5-365) (was 20 ILCS 5/9.03)

Sec. 5-365. In the Department of Labor. The Director of Labor shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Labor shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

The Chief Factory Inspector shall receive \$24,700 from the third Monday in January, 1979 to the third Monday in January, 1980, and \$25,000 thereafter, or as set by the Compensation Review Board, whichever is greater.

The Superintendent of Safety Inspection and Education shall receive \$27,500, or as set by the Compensation Review Board, whichever is greater.

The Superintendent of Women's and Children's Employment shall receive \$22,000 from the third Monday in January, 1979 to the third Monday in January, 1980, and \$22,500 thereafter, or as set by the Compensation Review Board, whichever is greater.

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-370) (was 20 ILCS 5/9.31)

Sec. 5-370. In the Department of the Lottery. The Director of the Lottery shall receive an annual salary as set ~~by the Governor from time to time or an amount set~~ by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-375) (was 20 ILCS 5/9.09)

Sec. 5-375. In the Department of Natural Resources. The Director of Natural Resources shall continue to receive the annual salary set by law for the Director of Conservation until January 20, 1997. Beginning on that date, the Director of Natural Resources shall receive an annual salary as set ~~by the Governor from time to time or the amount set~~ by the Compensation Review Board, ~~whichever is greater.~~

The Assistant Director of Natural Resources shall continue to receive the annual salary set by law for the Assistant Director of Conservation until January 20, 1997. Beginning on that date, the Assistant Director of Natural Resources shall receive an annual salary as set ~~by the Governor from time to time or the amount set~~ by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-385) (was 20 ILCS 5/9.25)

Sec. 5-385. In the Department of Nuclear Safety. The Director of Nuclear Safety shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-390) (was 20 ILCS 5/9.08)

Sec. 5-390. In the Department of Professional Regulation. The Director of Professional Regulation shall receive an annual salary ~~as set by the Governor from time to time or~~ as set by the Compensation Review Board, ~~whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-395) (was 20 ILCS 5/9.17)

Sec. 5-395. In the Department of Healthcare and Family Services. The Director of Healthcare and Family Services shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Director of Healthcare and Family Services shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

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

(20 ILCS 5/5-400) (was 20 ILCS 5/9.07)

Sec. 5-400. In the Department of Public Health. The Director of Public Health shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Director of Public Health shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-405) (was 20 ILCS 5/9.12)

Sec. 5-405. In the Department of Revenue. The Director of Revenue shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Director of Revenue shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 91-798, eff. 7-9-00.)

(20 ILCS 5/5-410) (was 20 ILCS 5/9.11)

Sec. 5-410. In the Department of State Police. The Director of State Police shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Director of State Police shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-415) (was 20 ILCS 5/9.05)

Sec. 5-415. In the Department of Transportation. The Secretary of Transportation shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Secretary of Transportation shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

(20 ILCS 5/5-420) (was 20 ILCS 5/9.22)

Sec. 5-420. In the Department of Veterans' Affairs. The Director of Veterans' Affairs shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

The Assistant Director of Veterans' Affairs shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater.~~

(Source: P.A. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

Section 10. The Military Code of Illinois is amended by changing Section 17 as follows:

(20 ILCS 1805/17) (from Ch. 129, par. 220.17)

Sec. 17. The Adjutant General and the Assistant Adjutants General shall give their entire time to their military duties. The Adjutant General shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater,~~ and each Assistant Adjutant General shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater. If set by the Governor, those annual salaries may not exceed 85% of the Governor's annual salary.~~

(Source: P.A. 91-25, eff. 6-9-99.)

Section 15. The State Fire Marshal Act is amended by changing Section 1 as follows:

(20 ILCS 2905/1) (from Ch. 127 1/2, par. 1)

Sec. 1. There is hereby created the Office of the State Fire Marshal, hereinafter referred to as the Office.

The Office shall be under an executive director who shall be appointed by the Governor with the

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advice and consent of the Senate.

The executive director of the Office shall be known as the State Fire Marshal and shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater. If set by the Governor, the annual salary may not exceed 85% of the annual salary of the Governor.~~

The Office of the State Fire Marshal shall have a division that shall assume the duties of the Division of Fire Prevention, Department of Law Enforcement, and a division that shall assume the duties of Illinois Fire Protection Personnel Standards and Education Commission. Each division shall be headed by a division manager who shall be employed by the Fire Marshal, subject to the Personnel Code, and shall be responsible to the Fire Marshal.

(Source: P.A. 94-178, eff. 1-1-06.)

Section 20. The Office of Banks and Real Estate Act is amended by changing Section 1 as follows:

(20 ILCS 3205/1) (from Ch. 17, par. 451)

Sec. 1. Salary.

(a) The Commissioner of Banks and Trust Companies shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater,~~ payable in equal monthly installments. The First Deputy Commissioner shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater, and~~ the other deputy commissioners shall receive an annual salary of \$38,000, or as set by the Compensation Review Board, whichever is greater, each payable in equal monthly installments. ~~If set by the Governor, those annual salaries may not exceed 85% of the Governor's annual salary.~~

(b) The Commissioner of the Office of Banks and Real Estate shall receive the annual salary provided by law for the Commissioner of Banks and Trust Companies until the General Assembly or the Compensation Review Board establishes a salary for the Commissioner of the Office of Banks and Real Estate. The First Deputy Commissioner and Deputy Commissioners of the Office of Banks and Real Estate shall receive the annual salaries provided by law for the First Deputy Commissioner and Deputy Commissioners of Banks and Trust Companies, respectively, until the General Assembly or the Compensation Review Board establishes salaries for the First Deputy Commissioner and Deputy Commissioners of the Office of Banks and Real Estate.

(Source: P.A. 91-25, eff. 6-9-99.)

Section 25. The Illinois Emergency Management Agency Act is amended by changing Section 5 as follows:

(20 ILCS 3305/5) (from Ch. 127, par. 1055)

Sec. 5. Illinois Emergency Management Agency.

(a) There is created within the executive branch of the State Government an Illinois Emergency Management Agency and a Director of the Illinois Emergency Management Agency, herein called the "Director" who shall be the head thereof. The Director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve for a term of 2 years beginning on the third Monday in January of the odd-numbered year, and until a successor is appointed and has qualified; except that the term of the first Director appointed under this Act shall expire on the third Monday in January, 1989. The Director shall not hold any other remunerative public office. The Director shall receive an annual salary as set ~~by the Governor from time to time or the amount set by the Compensation Review Board, whichever is higher. If set by the Governor, the Director's annual salary may not exceed 85% of the Governor's annual salary.~~

(b) The Illinois Emergency Management Agency shall obtain, under the provisions of the Personnel Code, technical, clerical, stenographic and other administrative personnel, and may make expenditures within the appropriation therefor as may be necessary to carry out the purpose of this Act. The agency created by this Act is intended to be a successor to the agency created under the Illinois Emergency Services and Disaster Agency Act of 1975 and the personnel, equipment, records, and appropriations of that agency are transferred to the successor agency as of the effective date of this Act.

(c) The Director, subject to the direction and control of the Governor, shall be the executive head of the Illinois Emergency Management Agency and the State Emergency Response Commission and shall be responsible under the direction of the Governor, for carrying out the program for emergency management of this State. The Director shall also maintain liaison and cooperate with the emergency management organizations of this State and other states and of the federal government.

(d) The Illinois Emergency Management Agency shall take an integral part in the development and revision of political subdivision emergency operations plans prepared under paragraph (f) of Section 10.

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To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to the emergency services and disaster agencies. These personnel shall consult with emergency services and disaster agencies on a regular basis and shall make field examinations of the areas, circumstances, and conditions that particular political subdivision emergency operations plans are intended to apply.

(e) The Illinois Emergency Management Agency and political subdivisions shall be encouraged to form an emergency management advisory committee composed of private and public personnel representing the emergency management phases of mitigation, preparedness, response, and recovery. The Local Emergency Planning Committee, as created under the Illinois Emergency Planning and Community Right to Know Act, shall serve as an advisory committee to the emergency services and disaster agency or agencies serving within the boundaries of that Local Emergency Planning Committee planning district for:

- (1) the development of emergency operations plan provisions for hazardous chemical emergencies; and
- (2) the assessment of emergency response capabilities related to hazardous chemical emergencies.

(f) The Illinois Emergency Management Agency shall:

- (1) Coordinate the overall emergency management program of the State.
- (2) Cooperate with local governments, the federal government and any public or private agency or entity in achieving any purpose of this Act and in implementing emergency management programs for mitigation, preparedness, response, and recovery.

(2.5) Develop a comprehensive emergency preparedness and response plan for any nuclear accident in accordance with Section 65 of the Department of Nuclear Safety Law of 2004 (20 ILCS 3310) and in development of the Illinois Nuclear Safety Preparedness program in accordance with Section 8 of the Illinois Nuclear Safety Preparedness Act.

- (2.6) Coordinate with the Department of Public Health with respect to planning for and responding to public health emergencies.

(3) Prepare, for issuance by the Governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters.

(4) Promulgate rules and requirements for political subdivision emergency operations plans that are not inconsistent with and are at least as stringent as applicable federal laws and regulations.

(5) Review and approve, in accordance with Illinois Emergency Management Agency rules, emergency operations plans for those political subdivisions required to have an emergency services and disaster agency pursuant to this Act.

(5.5) Promulgate rules and requirements for the political subdivision emergency management exercises, including, but not limited to, exercises of the emergency operations plans.

(5.10) Review, evaluate, and approve, in accordance with Illinois Emergency Management Agency rules, political subdivision emergency management exercises for those political subdivisions required to have an emergency services and disaster agency pursuant to this Act.

- (6) Determine requirements of the State and its political subdivisions for food, clothing, and other necessities in event of a disaster.

(7) Establish a register of persons with types of emergency management training and skills in mitigation, preparedness, response, and recovery.

- (8) Establish a register of government and private response resources available for use in a disaster.

(9) Expand the Earthquake Awareness Program and its efforts to distribute earthquake preparedness materials to schools, political subdivisions, community groups, civic organizations, and the media. Emphasis will be placed on those areas of the State most at risk from an earthquake. Maintain the list of all school districts, hospitals, airports, power plants, including nuclear power plants, lakes, dams, emergency response facilities of all types, and all other major public or private structures which are at the greatest risk of damage from earthquakes under circumstances where the damage would cause subsequent harm to the surrounding communities and residents.

(10) Disseminate all information, completely and without delay, on water levels for rivers and streams and any other data pertaining to potential flooding supplied by the Division of Water Resources within the Department of Natural Resources to all political subdivisions to the maximum extent possible.

(11) Develop agreements, if feasible, with medical supply and equipment firms to supply resources as are necessary to respond to an earthquake or any other disaster as defined in this Act.

These resources will be made available upon notifying the vendor of the disaster. Payment for the resources will be in accordance with Section 7 of this Act. The Illinois Department of Public Health shall determine which resources will be required and requested.

(11.5) In coordination with the Department of State Police, develop and implement a community outreach program to promote awareness among the State's parents and children of child abduction prevention and response.

(12) Out of funds appropriated for these purposes, award capital and non-capital grants to Illinois hospitals or health care facilities located outside of a city with a population in excess of 1,000,000 to be used for purposes that include, but are not limited to, preparing to respond to mass casualties and disasters, maintaining and improving patient safety and quality of care, and protecting the confidentiality of patient information. No single grant for a capital expenditure shall exceed \$300,000. No single grant for a non-capital expenditure shall exceed \$100,000. In awarding such grants, preference shall be given to hospitals that serve a significant number of Medicaid recipients, but do not qualify for disproportionate share hospital adjustment payments under the Illinois Public Aid Code. To receive such a grant, a hospital or health care facility must provide funding of at least 50% of the cost of the project for which the grant is being requested. In awarding such grants the Illinois Emergency Management Agency shall consider the recommendations of the Illinois Hospital Association.

(13) Do all other things necessary, incidental or appropriate for the implementation of this Act.

(Source: P.A. 93-249, eff. 7-22-03; 93-310, eff. 7-23-03; 94-334, eff. 1-1-06.)

Section 30. The Nuclear Safety Law of 2004 is amended by changing Section 45 as follows:

(20 ILCS 3310/45)

Sec. 45. Appointment of Assistant Director. The Assistant Director shall be an officer appointed by the Governor, with the advice and consent of the Senate, and shall serve for a term of 2 years beginning on the third Monday in January of the odd-numbered year, and until a successor is appointed and has qualified; except that the first Assistant Director under this Act shall be the Director of Nuclear Safety. The Assistant Director shall not hold any other remunerative public office. The Assistant Director shall receive an annual salary as set by the Governor from time to time or the amount set by the Compensation Review Board, whichever is higher. ~~If set by the Governor, the Assistant Director's annual salary may not exceed 85% of the Governor's annual salary.~~

(Source: P.A. 93-1029, eff. 8-25-04.)

Section 35. The Compensation Review Act is amended by adding Sections 2.1, 3.1, and 5.6 as follows:

(25 ILCS 120/2.1 new)

Sec. 2.1. "Set by Compensation Review Board": meaning. If salary or compensation is provided by law as set by the Compensation Review Board, then that means the salary or compensation in effect on the effective date of this amendatory Act of the 96th General Assembly and as provided in Section 5.6 of the Compensation Review Act.

(25 ILCS 120/3.1 new)

Sec. 3.1. FY10 furlough days. During the fiscal year beginning on July 1, 2009, every member of the General Assembly is mandatorily required to forfeit 4 days of compensation. The State Comptroller shall deduct the equivalent of 1/365th of the annual salary of each member from the compensation of that member in each of the first 4 months of the fiscal year.

(25 ILCS 120/5.6 new)

Sec. 5.6. FY10 COLA's prohibited. Notwithstanding any former or current provision of this Act, any other law, any report of the Compensation Review Board, or any resolution of the General Assembly to the contrary, members of the General Assembly, State's attorneys, other than the county supplement, the elected constitutional officers of State government, and certain appointed officers of State government, including members of State departments, agencies, boards, and commissions whose annual compensation was recommended or determined by the Compensation Review Board, are prohibited from receiving and shall not receive any increase in compensation that would otherwise apply based on a cost of living adjustment, as authorized by Senate Joint Resolution 192 of the 86th General Assembly, for or during the fiscal year beginning July 1, 2009. That cost of living adjustment shall apply again in the fiscal year beginning July 1, 2010 and thereafter.

(25 ILCS 120/2 rep.) (25 ILCS 120/3 rep.) (25 ILCS 120/4 rep.) (25 ILCS 120/5 rep.) (25 ILCS 120/6 rep.)

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Section 40. The Compensation Review Act is amended by repealing Sections 2, 3, 4, 5, and 6.

Section 45. The Environmental Protection Act is amended by changing Section 4 as follows:  
(415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

Sec. 4. Environmental Protection Agency; establishment; duties.

(a) There is established in the Executive Branch of the State Government an agency to be known as the Environmental Protection Agency. This Agency shall be under the supervision and direction of a Director who shall be appointed by the Governor with the advice and consent of the Senate. The term of office of the Director shall expire on the third Monday of January in odd numbered years, provided that he or she shall hold office until a successor is appointed and has qualified. The Director shall receive an annual salary ~~as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater. If set by the Governor, the Director's annual salary may not exceed 85% of the Governor's annual salary.~~ The Director, in accord with the Personnel Code, shall employ and direct such personnel, and shall provide for such laboratory and other facilities, as may be necessary to carry out the purposes of this Act. In addition, the Director may by agreement secure such services as he or she may deem necessary from any other department, agency, or unit of the State Government, and may employ and compensate such consultants and technical assistants as may be required.

(b) The Agency shall have the duty to collect and disseminate such information, acquire such technical data, and conduct such experiments as may be required to carry out the purposes of this Act, including ascertainment of the quantity and nature of discharges from any contaminant source and data on those sources, and to operate and arrange for the operation of devices for the monitoring of environmental quality.

(c) The Agency shall have authority to conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential contaminant or noise sources, of public water supplies, and of refuse disposal sites.

(d) In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of:

(1) Inspecting and investigating to ascertain possible violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; or

(2) In accordance with the provisions of this Act, taking whatever preventive or corrective action, including but not limited to removal or remedial action, that is necessary or appropriate whenever there is a release or a substantial threat of a release of (A) a hazardous substance or pesticide or (B) petroleum from an underground storage tank.

(e) The Agency shall have the duty to investigate violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; to issue administrative citations as provided in Section 31.1 of this Act; and to take such summary enforcement action as is provided for by Section 34 of this Act.

(f) The Agency shall appear before the Board in any hearing upon a petition for variance, the denial of a permit, or the validity or effect of a rule or regulation of the Board, and shall have the authority to appear before the Board in any hearing under the Act.

(g) The Agency shall have the duty to administer, in accord with Title X of this Act, such permit and certification systems as may be established by this Act or by regulations adopted thereunder. The Agency may enter into written delegation agreements with any department, agency, or unit of State or local government under which all or portions of this duty may be delegated for public water supply storage and transport systems, sewage collection and transport systems, air pollution control sources with uncontrolled emissions of 100 tons per year or less and application of algicides to waters of the State. Such delegation agreements will require that the work to be performed thereunder will be in accordance with Agency criteria, subject to Agency review, and shall include such financial and program auditing by the Agency as may be required.

(h) The Agency shall have authority to require the submission of complete plans and specifications from any applicant for a permit required by this Act or by regulations thereunder, and to require the submission of such reports regarding actual or potential violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order, as may be necessary for the purposes of this Act.

(i) The Agency shall have authority to make recommendations to the Board for the adoption of regulations under Title VII of the Act.

(j) The Agency shall have the duty to represent the State of Illinois in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts or other governmental arrangements relating to

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environmental protection.

(k) The Agency shall have the authority to accept, receive, and administer on behalf of the State any grants, gifts, loans, indirect cost reimbursements, or other funds made available to the State from any source for purposes of this Act or for air or water pollution control, public water supply, solid waste disposal, noise abatement, or other environmental protection activities, surveys, or programs. Any federal funds received by the Agency pursuant to this subsection shall be deposited in a trust fund with the State Treasurer and held and disbursed by him in accordance with Treasurer as Custodian of Funds Act, provided that such monies shall be used only for the purposes for which they are contributed and any balance remaining shall be returned to the contributor.

The Agency is authorized to promulgate such regulations and enter into such contracts as it may deem necessary for carrying out the provisions of this subsection.

(l) The Agency is hereby designated as water pollution agency for the state for all purposes of the Federal Water Pollution Control Act, as amended; as implementing agency for the State for all purposes of the Safe Drinking Water Act, Public Law 93-523, as now or hereafter amended, except Section 1425 of that Act; as air pollution agency for the state for all purposes of the Clean Air Act of 1970, Public Law 91-604, approved December 31, 1970, as amended; and as solid waste agency for the state for all purposes of the Solid Waste Disposal Act, Public Law 89-272, approved October 20, 1965, and amended by the Resource Recovery Act of 1970, Public Law 91-512, approved October 26, 1970, as amended, and amended by the Resource Conservation and Recovery Act of 1976, (P.L. 94-580) approved October 21, 1976, as amended; as noise control agency for the state for all purposes of the Noise Control Act of 1972, Public Law 92-574, approved October 27, 1972, as amended; and as implementing agency for the State for all purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), as amended; and otherwise as pollution control agency for the State pursuant to federal laws integrated with the foregoing laws, for financing purposes or otherwise. The Agency is hereby authorized to take all action necessary or appropriate to secure to the State the benefits of such federal Acts, provided that the Agency shall transmit to the United States without change any standards adopted by the Pollution Control Board pursuant to Section 5(c) of this Act. This subsection (l) of Section 4 shall not be construed to bar or prohibit the Environmental Protection Trust Fund Commission from accepting, receiving, and administering on behalf of the State any grants, gifts, loans or other funds for which the Commission is eligible pursuant to the Environmental Protection Trust Fund Act. The Agency is hereby designated as the State agency for all purposes of administering the requirements of Section 313 of the federal Emergency Planning and Community Right-to-Know Act of 1986.

Any municipality, sanitary district, or other political subdivision, or any Agency of the State or interstate Agency, which makes application for loans or grants under such federal Acts shall notify the Agency of such application; the Agency may participate in proceedings under such federal Acts.

(m) The Agency shall have authority, consistent with Section 5(c) and other provisions of this Act, and for purposes of Section 303(e) of the Federal Water Pollution Control Act, as now or hereafter amended, to engage in planning processes and activities and to develop plans in cooperation with units of local government, state agencies and officers, and other appropriate persons in connection with the jurisdiction or duties of each such unit, agency, officer or person. Public hearings shall be held on the planning process, at which any person shall be permitted to appear and be heard, pursuant to procedural regulations promulgated by the Agency.

(n) In accordance with the powers conferred upon the Agency by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the Agency shall have authority to establish and enforce minimum standards for the operation of laboratories relating to analyses and laboratory tests for air pollution, water pollution, noise emissions, contaminant discharges onto land and sanitary, chemical, and mineral quality of water distributed by a public water supply. The Agency may enter into formal working agreements with other departments or agencies of state government under which all or portions of this authority may be delegated to the cooperating department or agency.

(o) The Agency shall have the authority to issue certificates of competency to persons and laboratories meeting the minimum standards established by the Agency in accordance with Section 4(n) of this Act and to promulgate and enforce regulations relevant to the issuance and use of such certificates. The Agency may enter into formal working agreements with other departments or agencies of state government under which all or portions of this authority may be delegated to the cooperating department or agency.

(p) Except as provided in Section 17.7, the Agency shall have the duty to analyze samples as required from each public water supply to determine compliance with the contaminant levels specified by the Pollution Control Board. The maximum number of samples which the Agency shall be required to analyze for microbiological quality shall be 6 per month, but the Agency may, at its option, analyze a

larger number each month for any supply. Results of sample analyses for additional required bacteriological testing, turbidity, residual chlorine and radionuclides are to be provided to the Agency in accordance with Section 19. Owners of water supplies may enter into agreements with the Agency to provide for reduced Agency participation in sample analyses.

(q) The Agency shall have the authority to provide notice to any person who may be liable pursuant to Section 22.2(f) of this Act for a release or a substantial threat of a release of a hazardous substance or pesticide. Such notice shall include the identified response action and an opportunity for such person to perform the response action.

(r) The Agency may enter into written delegation agreements with any unit of local government under which it may delegate all or portions of its inspecting, investigating and enforcement functions. Such delegation agreements shall require that work performed thereunder be in accordance with Agency criteria and subject to Agency review. Notwithstanding any other provision of law to the contrary, no unit of local government shall be liable for any injury resulting from the exercise of its authority pursuant to such a delegation agreement unless the injury is proximately caused by the willful and wanton negligence of an agent or employee of the unit of local government, and any policy of insurance coverage issued to a unit of local government may provide for the denial of liability and the nonpayment of claims based upon injuries for which the unit of local government is not liable pursuant to this subsection (r).

(s) The Agency shall have authority to take whatever preventive or corrective action is necessary or appropriate, including but not limited to expenditure of monies appropriated from the Build Illinois Bond Fund and the Build Illinois Purposes Fund for removal or remedial action, whenever any hazardous substance or pesticide is released or there is a substantial threat of such a release into the environment. The State, the Director, and any State employee shall be indemnified for any damages or injury arising out of or resulting from any action taken under this subsection. The Director of the Agency is authorized to enter into such contracts and agreements as are necessary to carry out the Agency's duties under this subsection.

(t) The Agency shall have authority to distribute grants, subject to appropriation by the General Assembly, for financing and construction of municipal wastewater facilities. With respect to all monies appropriated from the Build Illinois Bond Fund and the Build Illinois Purposes Fund for wastewater facility grants, the Agency shall make distributions in conformity with the rules and regulations established pursuant to the Anti-Pollution Bond Act, as now or hereafter amended.

(u) Pursuant to the Illinois Administrative Procedure Act, the Agency shall have the authority to adopt such rules as are necessary or appropriate for the Agency to implement Section 31.1 of this Act.

(v) (Blank.)

(w) Neither the State, nor the Director, nor the Board, nor any State employee shall be liable for any damages or injury arising out of or resulting from any action taken under subsection (s).

(x)(1) The Agency shall have authority to distribute grants, subject to appropriation by the General Assembly, to units of local government for financing and construction of public water supply facilities. With respect to all monies appropriated from the Build Illinois Bond Fund or the Build Illinois Purposes Fund for public water supply grants, such grants shall be made in accordance with rules promulgated by the Agency. Such rules shall include a requirement for a local match of 30% of the total project cost for projects funded through such grants.

(2) The Agency shall not terminate a grant to a unit of local government for the financing and construction of public water supply facilities unless and until the Agency adopts rules that set forth precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for the termination of such grants. The Agency shall not make determinations on whether specific grant conditions are necessary to ensure the integrity of a project or on whether subagreements shall be awarded, with respect to grants for the financing and construction of public water supply facilities, unless and until the Agency adopts rules that set forth precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for making such determinations. The Agency shall not issue a stop-work order in relation to such grants unless and until the Agency adopts precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, for determining whether to issue a stop-work order.

(y) The Agency shall have authority to release any person from further responsibility for preventive or corrective action under this Act following successful completion of preventive or corrective action undertaken by such person upon written request by the person.

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

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

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Under the rules, the foregoing **Senate Bill No. 2090**, with House Amendment No. 1, was referred to the Secretary's Desk.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Clayborne, **House Bill No. 2448**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Rutherford
Bivins	Frerichs	Link	Sandoval
Bomke	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	
Duffy	Lauzen	Risinger	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Muñoz, **House Bill No. 2433**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS 2.

The following voted in the affirmative:

Althoff	Duffy	Koehler	Radogno
Bivins	Forby	Kotowski	Raoul
Bomke	Frerichs	Lauzen	Risinger
Bond	Garrett	Lightford	Sandoval
Brady	Haine	Link	Schoenberg
Burzynski	Harmon	Luechtefeld	Silverstein
Clayborne	Hendon	Maloney	Steans
Collins	Holmes	Martinez	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter

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DeLeo	Hutchinson	Muñoz	Viverito
Delgado	Jacobs	Murphy	Wilhelmi
Demuzio	Jones, E.	Noland	Mr. President
Dillard	Jones, J.	Pankau	

The following voted in the negative:

Dahl  
Rutherford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).  
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Dillard, **House Bill No. 2507**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jacobs	Pankau	Mr. President
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).  
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Clayborne, **House Bill No. 2530**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 56; NAYS 3.

The following voted in the affirmative:

Althoff	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg

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Brady	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	
Forby	Lightford	Risinger	

The following voted in the negative:

Bivins  
Burzynski  
Lauzen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Silverstein, **House Bill No. 2557** was recalled from the order of third reading to the order of second reading.

Senator Lauzen offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3 TO HOUSE BILL 2557

AMENDMENT NO. 3. Amend House Bill 2557, on page 1, line 5, by replacing "Section 1A-108.5" with "Sections 1-113.20 and 1A-108.5"; and

on page 1, immediately below line 5, by inserting the following:

"(40 ILCS 5/1-113.20 new)

Sec. 1-113.20. Investment strategies; explicit and implicit costs. Every pension fund, retirement system, and investment board created under this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall instruct the fund's, system's, or board's investment advisors to utilize investment strategies designed to ensure that all securities transactions are executed in such a manner that the total explicit and implicit costs and total proceeds in every transaction are the most favorable under the circumstances."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Silverstein, **House Bill No. 2557**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

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Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Jacobs, **House Bill No. 2626**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Demuzio, **House Bill No. 2675** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was withdrawn by the sponsor.

[May 21, 2009]

Senator Demuzio offered the following amendment and moved its adoption:

**AMENDMENT NO. 3 TO HOUSE BILL 2675**

AMENDMENT NO. 3. Amend House Bill 2675, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 18-12.5 and by changing Sections 21-1a and 21-10 as follows:

(105 ILCS 5/18-12.5 new)

Sec. 18-12.5. State aid claims during health emergencies. After consultation with a local health department, if a school district closes one or more recognized school buildings, but not all buildings, during a public health emergency, as determined by the State Board of Education in consultation with the Illinois Department of Public Health, the district may claim a full day of attendance for those days based on the average of the 3 school days of attendance immediately preceding the closure of the school building. Attendance for those days may be claimed only if the school building was scheduled to be in operation on those days. The partial or no day of attendance and the reasons thereof shall be certified, as prescribed by the State Board of Education, within a month after the closing by the school district superintendent to the regional superintendent of schools for forwarding to the State Superintendent of Education for approval.

This Section is applicable beginning April 1, 2009 and only if a school district closes a building or buildings, but not the entire district, which must be done in accordance with Section 18-12 of this Code.

(105 ILCS 5/21-1a) (from Ch. 122, par. 21-1a)

Sec. 21-1a. Tests required for certification and teacher preparation.

(a) After July 1, 1988, in addition to all other requirements, early childhood, elementary, special, high school, school service personnel, or, except as provided in Section 34-6, administrative certificates shall be issued to persons who have satisfactorily passed a test of basic skills, an assessment of professional teaching, and a test of subject matter knowledge, provided that a person who passed another state's test of basic skills as a condition of certification or of admission to a teacher preparation program shall not be required to pass this State's test of basic skills and subject matter knowledge. A person who holds a valid and comparable out of state certificate, however, is not required to take a test of basic skills and is not required to take a test of subject matter knowledge, provided that the person has successfully passed a test of subject matter knowledge in another state or territory of the United States that is directly related in content to the specific subject area of certification. The tests of basic skills and subject matter knowledge shall be the tests which from time to time are designated by the State Board of Education in consultation with the State Teacher Certification Board and may be tests prepared by an educational testing organization or tests designed by the State Board of Education in consultation with the State Teacher Certification Board. The areas to be covered by the test of basic skills shall include the basic skills of reading, writing, grammar and mathematics. The test of subject matter knowledge shall assess content knowledge in the specific subject field. The tests shall be designed to be racially neutral to assure that no person in taking the tests is thereby discriminated against on the basis of race, color, national origin or other factors unrelated to the person's ability to perform as a certificated employee. The score required to pass the tests of basic skills and subject matter knowledge shall be fixed by the State Board of Education in consultation with the State Teacher Certification Board. The tests shall be held not fewer than 3 times a year at such time and place as may be designated by the State Board of Education in consultation with the State Teacher Certification Board.

(b) Except as provided in Section 34-6, the provisions of subsection (a) of this Section shall apply equally in any school district subject to Article 34, provided that the State Board of Education shall determine which certificates issued under Sections 34-8.1 and 34-83 prior to July 1, 1988 are comparable to any early childhood certificate, elementary school certificate, special certificate, high school certificate, school service personnel certificate or administrative certificate issued under this Article as of July 1, 1988.

(c) A person who holds an early childhood, elementary, special, high school or school service personnel certificate issued under this Article on or at any time before July 1, 1988, including a person who has been issued any such certificate pursuant to Section 21-11.1 or in exchange for a comparable certificate theretofore issued under Section 34-8.1 or Section 34-83, shall not be required to take or pass the tests in order to thereafter have such certificate renewed.

(d) The State Board of Education in consultation with the State Teacher Certification Board shall conduct a pilot administration of the tests by administering the test to students completing teacher education programs in the 1986-87 school year for the purpose of determining the effect and impact of

[May 21, 2009]

testing candidates for certification.

Beginning with the 2002-2003 academic year, a student may not enroll in a teacher preparation program at a recognized teacher training institution until he or she has passed the basic skills test.

Beginning on the effective date of this amendatory Act of the 94th General Assembly, prior to completing an approved teacher preparation program, a preservice education candidate must satisfactorily pass the test of subject matter knowledge in the discipline in which he or she will be certified to teach. The teacher preparation program may require passage of the test of subject matter knowledge at any time during the program, including prior to student teaching.

(e) The rules and regulations developed to implement the required test of basic skills and subject matter knowledge shall include the requirements of subsections (a), (b), and (c) and shall include specific regulations to govern test selection; test validation and determination of a passing score; administration of the tests; frequency of administration; applicant fees; frequency of applicants' taking the tests; the years for which a score is valid; and, waiving certain additional tests for additional certificates to individuals who have satisfactorily passed the test of basic skills and subject matter knowledge as required in subsection (a). The State Board of Education shall provide, by rule, specific policies that assure uniformity in the difficulty level of each form of the basic skills test and each subject matter knowledge test from test-to-test and year-to-year. The State Board of Education shall also set a passing score for the tests.

(f) The State Teacher Certification Board may issue a nonrenewable temporary certificate between July 1, 1988 and August 31, 1988 to individuals who have taken the tests of basic skills and subject matter knowledge prescribed by this Section but have not received such test scores by August 31, 1988. Such temporary certificates shall expire on December 31, 1988.

(g) Beginning February 15, 2000, the State Board of Education, in consultation with the State Teacher Certification Board, shall implement and administer a new system of certification for teachers in the State of Illinois. The State Board of Education, in consultation with the State Teacher Certification Board, shall design and implement a system of examinations and various other criteria which shall be required prior to the issuance of Initial Teaching Certificates and Standard Teaching Certificates. These examinations and indicators shall be based on national and State professional teaching standards, as determined by the State Board of Education, in consultation with the State Teacher Certification Board. The State Board of Education may adopt any and all regulations necessary to implement and administer this Section.

(h) The State Board of Education shall report to the Illinois General Assembly and the Governor with recommendations for further changes and improvements to the teacher certification system no later than July 1, 1999 and on an annual basis until July 1, 2001.

(Source: P.A. 93-679, eff. 6-30-04; 94-208, eff. 7-14-05.)

(105 ILCS 5/21-10) (from Ch. 122, par. 21-10)

Sec. 21-10. Provisional certificate.

(A) Until July 1, 1972, the State Teacher Certification Board may issue a provisional certificate valid for teaching in elementary, high school or special subject fields subject to the following conditions:

A provisional certificate may be issued to a person who presents certified evidence of having earned a bachelor's degree from a recognized institution of higher learning. The academic and professional courses offered as a basis of the provisional certificate shall be courses approved by the State Board of Education in consultation with the State Teacher Certification Board.

A certificate earned under this plan may be renewed at the end of each two-year period upon evidence filed with the State Teacher Certification Board that the holder has earned 8 semester hours of credit within the period; provided the requirements for the certificate of the same type issued for the teaching position for which the teacher is employed shall be met by the end of the second renewal period. A second provisional certificate shall not be issued. The credits so earned must be approved by the State Board of Education in consultation with the State Teacher Certification Board and must meet the general pattern for a similar type of certificate issued on the basis of credit. No more than 4 semester hours shall be chosen from elective subjects.

(B) After July 1, 1972, the State Teacher Certification Board may issue a provisional certificate valid for teaching in early childhood, elementary, high school or special subject fields, or for providing service as school service personnel or for administering schools subject to the following conditions: A provisional certificate may be issued to a person who meets the requirements for a regular teaching, school service personnel or administrative certificate in another State and who presents certified evidence of having earned a bachelor's degree from a recognized institution of higher learning. The academic and professional courses offered as a basis of the provisional certificate shall be courses approved by the State Board of Education in consultation with the State Teacher Certification Board. A

certificate earned under this plan is valid for a period of 2 years and shall not be renewed—~~however, the individual to whom this certificate is issued shall have passed or shall pass the examinations set forth by the State Board of Education within 9 months of the date of issuance of the provisional certificate. Failure to pass the tests, required in Section 21-1a, shall result in the cancellation of the provisional certificate.~~

(C) The State Teacher Certification Board may also issue a provisional vocational certificate and a temporary provisional vocational certificate.

(1) The requirements for a provisional vocational certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board; provided, the following minimum requirements are met: (a) after July 1, 1972, at least 30 semester hours of credit from a recognized institution of higher learning; and (b) after July 1, 1974, at least 60 semester hours of credit from a recognized institution of higher learning.

(2) The requirements for a temporary provisional vocational certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board; provided, the following minimum requirements are met: (a) after July 1, 1973, at least 4,000 hours of work experience in the skill to be certified for teaching; and (b) after July 1, 1975, at least 8,000 hours of work experience in the skill to be certified for teaching. Any certificate issued under the provisions of this paragraph shall expire on June 30 following the date of issue. Renewals may be granted on a yearly basis, but shall not be granted to any person who does not file with the State Teacher Certification Board a transcript showing at least 3 semester hours of credit earned during the previous year in a recognized institution of learning. No such certificate shall be issued except upon certification by the employing board, subject to the approval of the regional superintendent of schools, that no qualified teacher holding a regular certificate or a provisional vocational certificate is available and that actual circumstances and need require such issuance.

The courses or work experience offered as a basis for the issuance of the provisional vocational certificate or the temporary provisional vocational certificate shall be approved by the State Board of Education in consultation with the State Teacher Certification Board.

(D) Until July 1, 1972, the State Teacher Certification Board may also issue a provisional foreign language certificate valid for 4 years for teaching the foreign language named therein in all grades of the common schools and shall be issued to persons who have graduated from a recognized institution of higher learning with not fewer than 120 semester hours of credit and who have met other requirements as determined by the State Board of Education in consultation with the State Teacher Certification Board. If the holder of a provisional foreign language certificate is not a citizen of the United States within 6 years of the date of issuance of the original certificate, such certificate shall be suspended by the regional superintendent of schools of the region in which the holder is engaged to teach and shall not be reinstated until the holder is a citizen of the United States.

(E) Notwithstanding anything in this Act to the contrary, the State Teacher Certification Board shall issue part-time provisional certificates to eligible individuals who are professionals and craftsmen.

The requirements for a part-time provisional teachers certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board, provided the following minimum requirements are met: 60 semester hours of credit from a recognized institution of higher learning or 4000 hours of work experience in the skill to be certified for teaching.

A part-time provisional certificate may be issued for teaching no more than 2 courses of study for grades 6 through 12.

A part-time provisional teachers certificate shall be valid for 2 years and may be renewed at the end of each 2 year period.

(Source: P.A. 90-548, eff. 1-1-98; 91-357, eff. 7-29-99.)

Section 99. Effective date. This Act takes effect July 1, 2009."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

[May 21, 2009]

On motion of Senator Demuzio, **House Bill No. 2675**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Clayborne, **House Bill No. 2688** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 2688

AMENDMENT NO. 1. Amend House Bill 2688, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 3.330 and by adding Section 39.8 as follows:

(415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

Sec. 3.330. Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

(1) (blank);

(2) waste storage sites regulated under 40 CFR, Part 761.42;

(3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

- (4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3;
- (5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;
- (6) sites or facilities used by any person to specifically conduct a landscape composting operation;
- (7) regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21;
- (9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;
- (10) the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) are exempt under this subdivision (10);
- (11) the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;
- (11.5) processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Admin. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Admin. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are: (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements;
- (12) the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;
- (13) the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000 as of January 1, 2000, and operated and located in accordance with Section 22.38 of this Act;
- (14) the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;
- (15) the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;
- (16) a site or facility that temporarily holds in transit for 10 days or less, non-petruscible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-petruscible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;
- (17) the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of this Act, for a municipal

waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency; ~~and~~

(18) a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received; ~~and~~

(19) the portion of a site or facility used to perform limited testing of a gasification conversion technology in accordance with Section 39.8 of this Act and for which a complete permit application has been submitted to the Agency at least one year before the effective date of this amendatory Act of the 96th General Assembly.

(b) A new pollution control facility is:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

(Source: P.A. 94-94, eff. 7-1-05; 94-249, eff. 7-19-05; 94-824, eff. 6-2-06; 95-131, eff. 8-13-07; 95-177, eff. 1-1-08; 95-331, eff. 8-21-07; 95-408, eff. 8-24-07; 95-876, eff. 8-21-08.)

(415 ILCS 5/39.8 new)

Sec. 39.8. Gasification conversion technology demonstration permit.

(a) The purpose of this Section is to provide for the permitting and limited testing of gasification conversion technologies on a pilot scale basis.

(b) For purposes of this Section:

"Gasification conversion technology" or "GCT" means the process of applying heat to municipal waste, chicken litter, distillers grain, or switchgrass in order to convert these materials into a synthetic gas ("syngas") that meets specifications for use as a fuel for the generation of electricity. To qualify as a GCT, the process must not continuously operate at temperatures exceeding an hourly average of 1,400 degrees Fahrenheit in the gasifier unit, must not use fossil fuels in the gasifier unit, and must be designed to produce more energy than it consumes.

"GCTDP" means a gasification conversion technology demonstration permit issued by the Agency under this Section.

(c) The Agency may, under the authority of subsection (b) of Section 9 and subsection (a) of Section 39 of the Act, issue a GCTDP to an applicant for limited field testing of a GCT in order to demonstrate that the GCT can reliably produce syngas meeting specifications for its use as fuel for the generation of electricity. The GCTDP shall be subject to all of the following conditions:

(1) The GCTDP shall be for a period not to exceed 180 consecutive calendar days from the date of issuance of the permit.

(2) The applicant for a GCTDP must demonstrate that, during the permit period, the GCT will not emit more than 500 pounds, in the aggregate, of particulate matter, sulfur dioxide, organic materials, hydrogen chloride, and heavy metals.

(3) The applicant for a GCTDP must perform emissions testing during the permit period, as required by the Agency, and submit the results of that testing to the Agency as specified in the GCTDP within 60 days after the completion of testing.

(4) During the permit period the applicant may not process more than 10 tons per day, in the aggregate, of materials in the gasification process. The applicant may not store on site more than 10 tons, in the aggregate, of waste and other materials of the types set forth in subsection (b) of this Section.

(5) In addition to the GCTDP, the applicant must obtain applicable waste management permits in accordance with subsection (d) of Section 21 and subsection (a) of Section 39 before receiving waste at the facility. All waste received at the facility must be managed in accordance with the Act, the waste management permits, and applicable regulations adopted pursuant to Section 22 of the Act.

(6) The applicant must demonstrate that the proposed project meets the criteria defining a GCT in subsection (b) of this Section.

(7) The applicant for a GCTDP shall submit application fees in accordance with subsection (c) of Section 9.12 of the Act, excluding the fees under subparagraph (B) of paragraph (2) of subsection (c) of that Section.

(8) A complete application for a GCTDP must be filed in accordance with this Section and submitted to the Agency at least one year before the effective date of this amendatory Act of the 96th General Assembly.

(9) The GCTDP shall not be granted for use in a nonattainment area.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was held in the Committee on Assignments.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Silverstein, **House Bill No. 3649**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Rutherford, **House Bill No. 3714** was recalled from the order of third reading to the order of second reading.

Senator Rutherford offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 3714

AMENDMENT NO. 1. Amend House Bill 3714 by replacing the title with the following: "AN ACT concerning criminal law."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by changing Section 5-6-3 as follows: (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3) (Text of Section before amendment by P.A. 95-983)

[May 21, 2009]

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

- (a) The conditions of probation and of conditional discharge shall be that the person:
- (1) not violate any criminal statute of any jurisdiction;
  - (2) report to or appear in person before such person or agency as directed by the court;
  - (3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;
  - (4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;
  - (5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;
  - (6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;
  - (7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;
  - (8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;
  - (8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;
  - (8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;
  - (8.7) if convicted for an offense committed on or after the effective date of this

amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services

Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance

violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance

abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv)

above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; ~~and~~

(17) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused; ~~and~~ -

(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child

Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(l) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08.)

(Text of Section after amendment by P.A. 95-983)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation

under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) ~~this amendatory Act of the 95th General Assembly~~ that

would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(8.8) if convicted for an offense under Section 11-6, 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983) ~~this amendatory Act of the 95th General Assembly~~:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug

- addiction or alcoholism;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his dependents;
- (7) and in addition, if a minor:
- (i) reside with his parents or in a foster home;
  - (ii) attend school;
  - (iii) attend a non-residential program for youth;
  - (iv) contribute to his own support at home or in a foster home;
  - (v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;
- (8) make restitution as provided in Section 5-5-6 of this Code;
- (9) perform some reasonable public or community service;
- (10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:
- (i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;
  - (ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and
  - (iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;
  - (iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and
  - (v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.
- (11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;
- (12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;
- (13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct

investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

~~(17) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused; and~~

~~(18) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) this amendatory Act of the 95th General Assembly that~~

would qualify as a sex offense as defined in the Sex Offender Registration Act:

(i) not access or use a computer or any other device with Internet capability

without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the subject's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer; and -

~~(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.~~

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

[May 21, 2009]

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the

probation department.

(l) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; revised 10-20-08.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Rutherford, **House Bill No. 3714**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Althoff, **House Bill No. 3785**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

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YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Hunter, **House Bill No. 3795** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 3795

AMENDMENT NO. 2. Amend House Bill 3795 on page 1, by replacing line 7 with the following:

"Sec. 15. Authorization.

(a) The Chief Judge of each judicial"; and

on page 1, by inserting immediately below line 9 the following:

"(b) Whenever the county boards of 2 or more counties within the same judicial circuit shall determine that a single drug court program would best serve those counties, the county board of each such county shall adopt a resolution to the effect that there shall be a single drug court program serving those counties, and shall provide a copy of the resolution to the Chief Judge of the judicial circuit. Upon receipt of those resolutions, the Chief Judge shall establish or, in the case of an existing drug court program, re-organize a single drug court program to serve those counties.

(c) Upon petition of the county board by the State's Attorney, the court may, for good cause shown of financial hardship or lack of necessary resources, enter an order delaying the implementation of the requirements of subsection (a) of this Section for an individual county, for a period not to exceed 2 years."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

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On motion of Senator Hunter, **House Bill No. 3795**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Clayborne, **House Bill No. 3854**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Righter, **House Bill No. 3981**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Garrett, **House Bill No. 4021**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter

DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Hultgren, **House Bill No. 4048** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment Nos. 1 and 2 were held in the Committee on Transportation.

Senate Floor Amendment Nos. 3 and 4 were withdrawn by the sponsor.

There being no further amendments, the bill was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Hultgren, **House Bill No. 4048**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAY 1.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The following voted in the negative:

Luechtefeld

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

Senator Luechtefeld asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **House Bill 4048**.

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On motion of Senator Link, **House Bill No. 4078**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Delgado, **House Bill No. 4124** was recalled from the order of third reading to the order of second reading.

Senator Delgado moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion prevailed.

Senator Delgado moved that Amendment No. 1 to **House Bill No. 4124** be ordered to lie on the table.

The motion to table prevailed.

There being no further amendments, the bill was held on the order of second reading at the request of the sponsor.

#### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Clayborne, **House Bill No. 4251**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Laufen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval

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Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Crotty, **House Bill No. 7** was taken up, read by title a second time and ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Brady, **House Bill No. 50**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Martinez, **House Bill No. 153**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightfoz	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Garrett, **House Bill No. 170** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was postponed in the Committee on Environment.

Senator Garrett offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 170

AMENDMENT NO. 2. Amend House Bill 170 as follows:

on page 4, line 7, by replacing "A" with "On and after January 1, 2013, a"; and

on page 4, line 19, immediately after "amended", by inserting "before January 1, 2013"; and

on page 8, line 12, by replacing "Construct" with "On and after January 1, 2013, construct"; and

on page 8, by deleting lines 24 and 25.

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was postponed in the Committee on Environment.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Garrett, **House Bill No. 170**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Haine, **House Bill No. 182**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Martinez, **House Bill No. 470**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lauzen	Risinger
Bivins	Garrett	Lightford	Rutherford
Bomke	Haine	Link	Sandoval
Burzynski	Harmon	Luechtefeld	Schoenberg
Clayborne	Hendon	Maloney	Silverstein
Cronin	Holmes	Meeks	Steans
Crotty	Hultgren	Millner	Sullivan
Dahl	Hunter	Muñoz	Syverson
DeLeo	Hutchinson	Murphy	Trotter
Delgado	Jacobs	Noland	Wilhelmi
Demuzio	Jones, E.	Pankau	Mr. President
Dillard	Jones, J.	Radogno	
Duffy	Koehler	Raoul	
Forby	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Martinez asked and obtained unanimous consent for the Journal to reflect her intention to vote in the affirmative on **House Bill 470**.

At the hour of 11:52 o'clock a.m., Senator Clayborne, presiding.

#### HOUSE BILL RECALLED

On motion of Senator Demuzio, **House Bill No. 237** was recalled from the order of third reading to the order of second reading.

Senator Schoenberg offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 237

AMENDMENT NO. 1. Amend House Bill 237 on page 1, by replacing line 5 with the following: "changing Sections 1 and 3-2 as follows:

(30 ILCS 540/1) (from Ch. 127, par. 132.401)

Sec. 1. This Act applies to any State official or agency authorized to provide for payment from State funds, by virtue of any appropriation of the General Assembly, for goods or services furnished to the State.

For purposes of this Act, "goods or services furnished to the State" include but are not limited to (i) covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971, including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act, and (ii) prevention, intervention, or treatment

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services and supports for persons with developmental disabilities, mental health services, alcohol and substance abuse services, rehabilitation services, and early intervention services provided by a vendor. For the purposes of item (ii), a vendor includes but is not limited to sellers of goods and services, including community-based organizations that are licensed to provide prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental illness, and substance abuse problems.

For the purposes of this Act, "appropriate State official or agency" is defined as the Director or Chief Executive or his designee of that State agency or department or facility of such agency or department. With respect to covered health care provided to eligible members and their dependents in accordance with the State Employees Group Insurance Act of 1971, "appropriate State official or agency" also includes an administrator of a program of health benefits under that Act.

As used in this Act, "eligible member" means a member who is eligible for health benefits under the State Employees Group Insurance Act of 1971, and "member" and "dependent" have the meanings ascribed to those terms in that Act.

As used in this Act, "a proper bill or invoice" means a bill or invoice that includes the information necessary for processing the payment as may be specified by a State agency and in rules adopted in accordance with this Act.

(Source: P.A. 91-266, eff. 7-23-99; 92-384, eff. 7-1-02.); and

on page 2, line 2, by replacing "30" with "60"; and

on page 2, line 4, by replacing "30-day" with "60-day"; and

on page 2, line 6, by replacing "30-day" with "60-day".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Demuzio, **House Bill No. 237**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	MEEKS	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

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This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Martinez, **House Bill No. 489**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

At the hour of 11:57 o'clock a.m., Senator Schoenberg, presiding.

On motion of Senator Harmon, **House Bill No. 519**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAY 1.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan

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Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The following voted in the negative:

Lauzen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Radogno, **House Bill No. 547**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Lightford, **House Bill No. 436**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 43; NAYS 4.

The following voted in the affirmative:

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Althoff	Garrett	Kotowski	Sandoval
Bivins	Haine	Lightford	Schoenberg
Bomke	Harmon	Link	Silverstein
Clayborne	Hendon	Maloney	Steans
Collins	Holmes	Martinez	Sullivan
Crotty	Hultgren	Meeks	Syverson
Dahl	Hunter	Muñoz	Trotter
DeLeo	Hutchinson	Murphy	Viverito
Delgado	Jacobs	Raoul	Wilhelmi
Dillard	Jones, E.	Risinger	Mr. President
Frerichs	Koehler	Rutherford	

The following voted in the negative:

Burzynski	Jones, J.
Duffy	Laufen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Hultgren, **House Bill No. 621**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:41 o'clock p.m., Senator Muñoz, presiding.

**HOUSE BILL RECALLED**

[May 21, 2009]

On motion of Senator Steans, **House Bill No. 751** was recalled from the order of third reading to the order of second reading.

Senator Steans offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO HOUSE BILL 751**

AMENDMENT NO.   1  . Amend House Bill 751 on page 11, by replacing lines 4 through 8 with the following:

"(d) The purposes for which the net proceeds from a sale of real estate as provided in this Section may be used include, but are not limited to, the following:

(1) Providing for individuals with developmental disabilities and mental health needs the services and supports described in subsection (e) of Section 4.4.

(2) In the case of the closure of a mental health facility, the construction of a new facility to serve the needs of persons with mental health needs.

(3) In the case of the closure of a developmental disabilities facility, construction of a new facility to serve the needs of persons with developmental disabilities needs."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Steans, **House Bill No. 751**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None; Present 2.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Collins	Hultgren	Meeks	Syverson
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The following voted present:

DeLeo  
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

[May 21, 2009]

On motion of Senator Trotter, **House Bill No. 762**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Burzynski	Haine	Maloney	Silverstein
Clayborne	Harmon	Martinez	Sullivan
Collins	Hendon	Meeks	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

### HOUSE BILL RECALLED

On motion of Senator Althoff, **House Bill No. 1322** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3 TO HOUSE BILL 1322

AMENDMENT NO. 3. Amend House Bill 1322, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Transportation Development Partnership Act.

Section 5. Transportation Development Partnership Trust Fund. The Transportation Development Partnership Trust Fund is created as a trust fund in the State treasury. The State Treasurer shall be the custodian of the Fund. If a county or an entity created by an intergovernmental agreement between 2 or more counties elects to participate under Section 5-1035.1 or 5-1006.5 of the Counties Code or designates funds by ordinance, the Department of Revenue shall transfer to the State Treasurer all or a portion of the taxes and penalties collected under the Special County Retailers Occupation Tax For Public Safety or Transportation and under the County Option Motor Fuel Tax or the funds designated by the county or entity by ordinance into the Transportation Development Partnership Trust Fund. The Department of Transportation shall maintain a separate account for each participating county or entity within the Fund. The Department of Transportation shall administer the Fund.

Moneys in the Fund shall be used for transportation-related projects. The Department of Transportation and participating counties or entities may, at the Secretary's discretion under agency procedures, enter into an intergovernmental agreement. The agreement shall at a minimum:

(1) Describe the project to be constructed from the Department of Transportation's Multi-Year Highway Improvement Program or the appropriate Metropolitan Planning Organization's

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Transportation Improvement Program for projects located with a Metropolitan Planning Organization region.

(2) Provide that an eligible project cost a minimum of \$5,000,000.

(3) Provide that the county or entity must raise a significant percentage, not less than the amount contributed by the State, of required federal matching funds.

(4) Provide that the Secretary of Transportation must certify that the county or entity has transferred the required moneys to the Fund and the certification shall be transmitted to each county or entity no more than 30 days after the final deposit is made.

(5) Provide for the repayment, without interest, to the county or entity of the moneys contributed by the county or entity to the Fund, less 10% of the aggregate funds contributed as matching funds and as federal funds.

(6) Provide that the repayment of the moneys contributed by the county or the entity shall be made by the Department of Transportation no later than 10 years after the certification by the Secretary of Transportation that the money has been deposited by the county or entity into the Fund.

Section 10. The Counties Code is amended by changing Sections 5-1006.5 and 5-1035.1 as follows:  
(55 ILCS 5/5-1006.5)

Sec. 5-1006.5. Special County Retailers' Occupation Tax For Public Safety, Public Facilities, or Transportation.

(a) The county board of any county may impose a tax upon all persons engaged in the business of selling tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the county on the gross receipts from the sales made in the course of business to provide revenue to be used exclusively for public safety, public facility, or transportation purposes in that county, if a proposition for the tax has been submitted to the electors of that county and approved by a majority of those voting on the question. If imposed, this tax shall be imposed only in one-quarter percent increments. By resolution, the county board may order the proposition to be submitted at any election. If the tax is imposed for transportation purposes for expenditures for public highways or as authorized under the Illinois Highway Code, the county board must publish notice of the existence of its long-range highway transportation plan as required or described in Section 5-301 of the Illinois Highway Code and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. If the tax is imposed for transportation purposes for expenditures for passenger rail transportation, the county board must publish notice of the existence of its long-range passenger rail transportation plan and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. The county clerk shall certify the question to the proper election authority, who shall submit the proposition at an election in accordance with the general election law.

(1) The proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of the paragraph, "public safety purposes" means crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services.

Votes shall be recorded as "Yes" or "No".

(2) The proposition for transportation purposes shall be in substantially the following form:

"To pay for improvements to roads and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for transportation purposes shall be in substantially the following form:

"To pay for road improvements and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of this paragraph, transportation purposes means construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation.

The votes shall be recorded as "Yes" or "No".

(3) The proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For purposes of this Section, "public facilities purposes" means the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

The votes shall be recorded as "Yes" or "No".

If a majority of the electors voting on the proposition vote in favor of it, the county may impose the tax. A county may not submit more than one proposition authorized by this Section to the electors at any one time.

This additional tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax

imposed by a county under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Illinois Department of Revenue and deposited into a special fund created for that purpose. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit the retailer to engage in a business that is taxable without registering separately with the Department under an ordinance or resolution under this Section. The Department has full power to administer and enforce this Section, to collect all taxes and penalties due under this Section, to dispose of taxes and penalties so collected in the manner provided in this Section, and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this Section. In the administration of and compliance with this Section, the Department and persons who are subject to this Section shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all provisions contained in those Sections other than the State rate of tax), 2a, 2b, 2c, 3 (except provisions relating to transaction returns and quarter monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as if those provisions were set forth in this Section.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their sellers' tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracketed schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Public Safety or Transportation Retailers' Occupation Tax Fund.

(b) If a tax has been imposed under subsection (a), a service occupation tax shall also be imposed at the same rate upon all persons engaged, in the county, in the business of making sales of service, who, as an incident to making those sales, transfer tangible personal property within the county as an incident to a sale of service. This tax may not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed under this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Department of Revenue. The Department has full power to administer and enforce this subsection; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this subsection, the Department and persons who are subject to this paragraph shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 2 (except that the reference to State in the definition of supplier maintaining a place of business in this State shall mean the county), 2a, 2b, 2c, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the county), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the county), 9 (except as to the disposition of taxes and penalties collected), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the county), Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their serviceman's tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this subsection to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County

Public Safety or Transportation Retailers' Occupation Fund.

Nothing in this subsection shall be construed to authorize the county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

(c) The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected under this Section to be deposited into the County Public Safety or Transportation Retailers' Occupation Tax Fund, which shall be an unappropriated trust fund held outside of the State treasury. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the counties from which retailers have paid taxes or penalties to the Department during the second preceding calendar month. The amount to be paid to each county, and deposited by the county into its special fund created for the purposes of this Section, shall be the amount (not including credit memoranda) collected under this Section during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including (i) an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county and (ii) any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county. Within 10 days after receipt by the Comptroller of the disbursement certification to the counties provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with directions contained in the certification.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in March of each year to each county that received more than \$500,000 in disbursements under the preceding paragraph in the preceding calendar year. The allocation shall be in an amount equal to the average monthly distribution made to each such county under the preceding paragraph during the preceding calendar year (excluding the 2 months of highest receipts). The distribution made in March of each year subsequent to the year in which an allocation was made pursuant to this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the Special County Retailers' Occupation Tax For Public Safety or Transportation be deposited into the Transportation Development Partnership Trust Fund.

(d) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or another mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or another mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

(e) Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(e-5) If a county imposes a tax under this Section, the county board may, by ordinance, discontinue or lower the rate of the tax. If the county board lowers the tax rate or discontinues the tax, a referendum must be held in accordance with subsection (a) of this Section in order to increase the rate of the tax or to reimpose the discontinued tax.

(f) Beginning April 1, 1998, the results of any election authorizing a proposition to impose a tax under this Section or effecting a change in the rate of tax, or any ordinance lowering the rate or discontinuing the tax, shall be certified by the county clerk and filed with the Illinois Department of Revenue either (i) on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax as of the first day of January next following the filing.

(g) When certifying the amount of a monthly disbursement to a county under this Section, the Department shall increase or decrease the amounts by an amount necessary to offset any miscalculation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a miscalculation is discovered.

(h) This Section may be cited as the "Special County Occupation Tax For Public Safety, Public Facilities, or Transportation Law".

(i) For purposes of this Section, "public safety" includes, but is not limited to, crime prevention,

detention, fire fighting, police, medical, ambulance, or other emergency services. For the purposes of this Section, "transportation" includes, but is not limited to, the construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation. For the purposes of this Section, "public facilities purposes" includes, but is not limited to, the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

(j) The Department may promulgate rules to implement this amendatory Act of the 95th General Assembly only to the extent necessary to apply the existing rules for the Special County Retailers' Occupation Tax for Public Safety to this new purpose for public facilities.

(Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08; 95-1002, eff. 11-20-08.)

(55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

Sec. 5-1035.1. County Motor Fuel Tax Law. The county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The tax may be imposed, in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and right-of-ways for public highways and waterways within the county imposing the tax.

A tax imposed pursuant to this Section, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Option Motor Fuel Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less the amount expended during the second preceding month by the Department pursuant to appropriation from the County Option Motor Fuel Tax Fund for the administration and enforcement of this Section, which appropriation shall not exceed \$200,000 for fiscal year 1990 and, for each year thereafter, shall not exceed 2% of the amount deposited into the County Option Motor Fuel Tax Fund during the preceding fiscal year.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the County Option Motor Fuel Tax shall be deposited into the Transportation Development Partnership Trust Fund.

Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

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An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance.

This Section shall be known and may be cited as the County Motor Fuel Tax Law.  
(Source: P.A. 86-1028; 87-289.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Althoff, **House Bill No. 1322**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Althoff, **House Bill No. 1335** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

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**AMENDMENT NO. 1 TO HOUSE BILL 1335**

AMENDMENT NO. 1. Amend House Bill 1335 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Sections 10-20.46, 22-50, and 34-18.37 as follows:

(105 ILCS 5/10-20.46 new)

Sec. 10-20.46. Press boxes; accessibility. A school board does not have to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400) with respect to accessibility to press boxes that are on school property if the press boxes were constructed before the effective date of this amendatory Act of the 96th General Assembly.

(105 ILCS 5/22-50 new)

Sec. 22-50. Illinois Accessibility Task Force.

(a) The Illinois Accessibility Task Force is created to recommend any necessary revisions to the Illinois Accessibility Code (71 Ill. Adm. Code 400) to comply with the federal Americans with Disabilities Act of 1990 with respect to public school property.

(b) The task force shall consist of the following members:

(1) One member appointed by the President of the Senate.

(2) One member appointed by the Minority Leader of the Senate.

(3) One member appointed by the Speaker of the House of Representatives.

(4) One member appointed by the Minority Leader of the House of Representatives.

(5) The Executive Director of the Capital Development Board or his or her designee.

(6) The Attorney General or his or her designee.

(7) A representative of a statewide association representing school boards appointed by the Executive Director of the Capital Development Board.

(8) A representative of a statewide association representing regional superintendents of schools appointed by the Executive Director of the Capital Development Board.

(9) A representative of a statewide coalition of citizens with disabilities appointed by the Executive Director of the Capital Development Board.

(c) The Capital Development Board shall provide administrative and other support to the task force.

(d) The task force shall report its recommendations to the Capital Development Board and the General Assembly, and upon reporting its recommendations the task force is dissolved.

(105 ILCS 5/34-18.37 new)

Sec. 34-18.37. Press boxes; accessibility. The board does not have to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400) with respect to accessibility to press boxes that are on school property if the press boxes were constructed before the effective date of this amendatory Act of the 96th General Assembly.

Section 99. Effective date. This Act takes effect July 1, 2009."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Althoff, **House Bill No. 1335**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff  
Bivins

Duffy  
Forby

Kotowski  
Lauzen

Raoul  
Richter

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Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

### HOUSE BILL RECALLED

On motion of Senator Martinez, **House Bill No. 2440** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 2440

AMENDMENT NO. 2. Amend House Bill 2440 by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by changing Section 4.20 and adding Section 4.30 as follows:

(5 ILCS 80/4.20)

Sec. 4.20. Acts repealed on January 1, 2010 and December 31, 2010.

(a) The following Acts are repealed on January 1, 2010:

The Auction License Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

The Land Sales Registration Act of 1999.

~~The Orthotics, Prosthetics, and Pedorthics Practice Act.~~

~~The Perfusionist Practice Act.~~

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(b) The following Act is repealed on December 31, 2010:

The Medical Practice Act of 1987.

(Source: P.A. 95-1018, eff. 12-18-08.)

(5 ILCS 80/4.30 new)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

~~The Orthotics, Prosthetics, and Pedorthics Practice Act.~~

~~The Perfusionist Practice Act.~~

Section 10. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by changing Sections 5, 10, 15, 20, 25, 40, 55, 57, 60, 70, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 150, and 160 and by adding Sections 77, 103, and 107 as follows:

(225 ILCS 84/5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5. Declaration of public policy. The practice of orthotics and prosthetics in the State of Illinois is an allied health profession recognized by the American Medical Association, with educational standards

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established by the Commission on Accreditation of Allied Health Education Programs. The practice of pedorthics in the State of Illinois is an allied health profession with educational standards established by the National Commission on Orthotic and Prosthetic Education recognized by the American Academy of Orthopaedic Surgeons, with educational standards established by the Board for Certification in Pedorthics. The increasing population of elderly and physically challenged individuals who need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and pedorthic professions be regulated to ensure the provision of high-quality services and devices. The people of Illinois deserve the best care available, and will benefit from the assurance of initial and ongoing professional competence of the orthotists, prosthetists, and pedorthists practicing in this State. The practice of orthotics, prosthetics, and pedorthics serves to improve and enhance the lives of individuals with disabilities by enabling them to resume productive lives following serious illness, injury, or trauma. Unregulated dispensing of orthotic, prosthetic, and pedorthic care does not adequately meet the needs or serve the interests of the public. In keeping with State requirements imposed on similar health disciplines, licensure of the orthotic, prosthetic, and pedorthic professions will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/10)

(Section scheduled to be repealed on January 1, 2010)

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

"Accredited facility" means a facility which has been accredited by the Center for Medicare Medicaid Services to practice prosthetics, orthotics or pedorthics and which represents itself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", "orthotic", "orthotist", "brace", "pedorthic", "pedorthist" or a similar title or description of services.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department.

"Assistant" means a person who is educated and trained to participate in comprehensive orthotic or prosthetic care while under the supervision, as defined by rule, of a licensed orthotist or licensed prosthetist. Assistants may perform orthotic or prosthetic procedures and related tasks in the management of patient care. Assistants may also fabricate, repair, and maintain orthoses and prostheses assists an orthotist, prosthetist, or prosthetist/orthotist with patient care services and fabrication of orthoses or prostheses under the supervision of a licensed orthotist or prosthetist.

"Board" means the Board of Orthotics, Prosthetics, and Pedorthics.

"Custom fabricated device" means an orthosis, prosthesis, or pedorthic device fabricated to comprehensive measurements or a mold or patient model for use by a patient in accordance with a prescription and which requires clinical and technical judgment in its design, fabrication, and fitting.

"Custom fitted device" means an orthosis, prosthesis, or pedorthic device made to patient measurements sized or modified for use by the patient in accordance with a prescription and which requires clinical and technical judgment and substantive alteration in its design. "Custom" means that an orthosis, prosthesis, or pedorthic device is designed, fabricated, and aligned specifically for one person in accordance with sound biomechanical principles.

"Custom fitted" means that a prefabricated orthosis, prosthesis, or pedorthic device is modified and aligned specifically for one person in accordance with sound biomechanical principles.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of Professional Regulation.

"Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided and, in the case of an orthotic/prosthetic facility, has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care and, in the case of a pedorthic facility, has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or supervise the provision of care by unlicensed registered staff.

"Licensed orthotist" or "LO" means a person licensed under this Act to practice orthotics and who represents himself or herself to the public by title or description of services that includes the term "orthotic", "orthotist", "brace", or a similar title or description of services.

"Licensed pedorthist" or "LPed" means a person licensed under this Act to practice pedorthics and who represents himself or herself to the public by the title or description of services that include the term "pedorthic", "pedorthist", or a similar title or description of services.

"Licensed physician" means a person licensed under the Medical Practice Act of 1987.

"Licensed podiatrist" means a person licensed under the Podiatric Medical Practice Act of 1987.

"Licensed prosthetist" or "LP" means a person licensed under this Act to practice prosthetics and who represents himself or herself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", or a similar title or description of services.

"Off-the-shelf device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription and that does not require substantial clinical judgment and substantive alteration for appropriate use.

"Orthosis" means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility.

"Orthotic and Prosthetic Education Program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of (i) a basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology and (ii) a specific curriculum in orthotic or prosthetic courses, including: (A) lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management; (B) subject matter related to pediatric and geriatric problems; (C) instruction in acute care techniques, such as immediate and early post-surgical prosthetics and fracture bracing techniques; and (D) lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

"Orthotic and prosthetic scope of practice" means a list of tasks, with relative weight given to such factors as importance, criticality, and frequency, based on internationally accepted standards of orthotic and prosthetic care as outlined by the International Society of Prosthetics and Orthotics' professional profile for Category I and Category III orthotic and prosthetic personnel.

"Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Orthotist" means a health care professional, specifically educated and trained in orthotic patient care, who measures, designs, fabricates, fits, or services orthoses and may assist in the formulation of the order and treatment plan of orthoses for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities. ~~person who measures, designs, fabricates, fits, or services orthoses and assists in the formulation of the order of orthoses as ordered by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.~~

"Over-the-counter" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgement in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, elastic hoses.

"Pedorthic device" means therapeutic shoes (e.g. diabetic shoes and inserts), shoe modifications made for therapeutic purposes, below the ankle partial foot prostheses, and foot orthoses for use at the ankle or below. It also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. Pedorthic devices do not include non-therapeutic inlays or footwear regardless of method of manufacture; unmodified, non-therapeutic over-the-counter shoes; or prefabricated foot care products. "Therapeutic" devices address a medical condition, diagnosed by a prescribing medical professional, while "non-therapeutic" devices do not address a medical condition. ~~footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes. "Pedorthic device" does not include non-therapeutic accommodative inlays or non-therapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for non-therapeutic purposes, unmodified, over the counter shoes, or prefabricated foot care products.~~

"Pedorthic education program" means an educational program accredited by the National Commission on Orthotic and Prosthetic Education a course of instruction accredited by the Board for Certification in Pedorthics consisting of (i) a basic curriculum of instruction in foot-related pathology of diseases,

anatomy, and biomechanics and (ii) a specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, subject matter related to pediatric and geriatric problems, and lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices.

"Pedorthic scope of practice" means a list of tasks with relative weight given to such factors as importance, criticality, and frequency based on nationally accepted standards of pedorthic care as outlined by the National Commission on Orthotic and Prosthetic Education Board for Certification in Pedorthics' comprehensive analysis with an empirical validation study of the profession performed by an independent testing company.

"Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Pedorthist" means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities. ~~person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices as ordered by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.~~

"Person" means a natural person.

"Prosthesis" means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand, or foot. "Prosthesis" does not include artificial eyes, ears, fingers, or toes, dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body.

"Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician.

"Prosthetist" means a health care professional, specifically educated and trained in prosthetic patient care, who measures, designs, fabricates, fits, or services prostheses and may assist in the formulation of the order and treatment plan of prostheses for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences. ~~person who measures, designs, fabricates, fits, or services prostheses and assists in the formulation of the order of prostheses as ordered by a licensed physician for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.~~

"Prosthetist/orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by title or by description of services. A person who is currently licensed by the State as both a licensed prosthetist and a licensed orthotist may use the title "Licensed Prosthetist Orthotist" or "LPO".

"Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education.

"Residency" means a minimum of a one-year approved supervised program to acquire practical clinical training in orthotics or prosthetics in a patient care setting.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Technician" means a person who assists an orthotist, prosthetist, prosthetist/orthotist, or pedorthist with fabrication of orthoses, prostheses, or pedorthic devices but does not provide direct patient care.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Exceptions. This Act shall not be construed to prohibit:

- (1) a physician licensed in this State from engaging in the practice for which he or she is licensed;
- (2) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;
- (3) the practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;

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(4) the practice of orthotics, prosthetics, or pedorthics by (i) a student enrolled in a school of orthotics, prosthetics, or pedorthics, (ii) a resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education, or (iii) a student in a qualified work experience program or internship in pedorthics;

(5) the practice of orthotics, prosthetics, or pedorthics by one who is an orthotist, prosthetist, or pedorthist licensed under the laws of another state or territory of the United States or another country and has applied in writing to the Department, in a form and substance satisfactory to the Department, for a license as orthotist, prosthetist, or pedorthist and who is qualified to receive the license under Section 40 until (i) the expiration of 6 months after the filing of the written application, (ii) the withdrawal of the application, or (iii) the denial of the application by the Department;

(6) a person licensed by this State as a physical therapist, ~~or~~ occupational therapist or advanced practice nurse from engaging in his or her profession; or

(7) a physician licensed under the Podiatric Medical Practice Act of 1997 from engaging in his or her profession.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20. Powers and duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensure Acts and shall exercise other powers and duties necessary for effectuating the purposes of this Act.

(b) The Department ~~shall~~ ~~may~~ adopt rules to administer and enforce this Act including, but not limited to, fees for original licensure, ~~and~~ renewal and restoration of licenses and may prescribe forms to be issued to implement its rules. The Department shall exercise the powers and duties prescribed by this Act. At a minimum, the rules adopted by the Department shall include standards and criteria for licensure and for professional conduct and discipline. The Department shall consult with the Board in adopting rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and ~~inform the Board of any deviations any recommendations made in writing with proper explanation of deviations from the Board's recommendations and response.~~

(c) The Department at any time may seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

~~(d) Department may adopt rules as necessary to establish eligibility for facility registration and standards.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25. Board of Orthotics, Prosthetics, and Pedorthics.

(a) There is established a Board of Orthotics, Prosthetics, and Pedorthics, which shall consist of 6 voting members to be appointed by the ~~Secretary Director~~. Three members shall be practicing licensed orthotists, licensed prosthetists, or licensed pedorthists. These members may be licensed in more than one discipline and their appointments must equally represent all 3 disciplines. One member shall be a member of the public who is a consumer of orthotic, prosthetic, or pedorthic professional services. One member shall be a public member who is not licensed under this Act or a consumer of services licensed under this Act. One member shall be a licensed physician.

(b) Each member of the Board shall serve a term of 3 years, except that of the initial appointments to the Board, 2 members shall be appointed for one year, 2 members shall be appointed for 2 years, and 2 members shall be appointed for 3 years. Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than 8 consecutive years or 2 full terms, whichever is greater.

(c) Members of the Board shall receive as compensation a reasonable sum as determined by the ~~Secretary Director~~ for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.

~~(d) Four members of the Board shall constitute a quorum. A quorum is required for all Board decisions. A quorum of the Board shall consist of a majority of Board members currently appointed.~~

(e) The ~~Secretary Director~~ may terminate the appointment of any member for cause which, in the opinion of the ~~Secretary Director~~ reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend 2 consecutive meetings.

(f) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 40. Qualifications for licensure as orthotist, prosthetist, or pedorthist.

(a) To qualify for a license to practice orthotics or prosthetics, a person shall:

- (1) possess a baccalaureate degree from a college or university;
- (2) have completed the amount of formal training, including, but not limited to, any hours of classroom education and clinical practice established and approved by the Department;
- (3) complete a clinical residency in the professional area for which a license is sought in accordance with standards, guidelines, or procedures for residencies inside or outside this State established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of orthotics or prosthetics or a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) whose practice is located outside of the State ~~certification was obtained before the effective date of this Act;~~

(4) pass all written, practical, and oral examinations that are required and approved by the Department; and

(5) be qualified to practice in accordance with internationally accepted standards of orthotic and prosthetic care.

(b) To qualify for a license to practice pedorthics, a person shall:

(1) ~~submit proof of~~ possess a high school diploma or its equivalent;

(2) have completed the amount of formal training, including, but not limited to, any hours of classroom education and clinical practice established and approved by the Department;

(3) complete a qualified work experience program or internship in pedorthics that has a minimum of 1,000 hours of pedorthic patient care experience in

accordance with any standards, guidelines, or procedures established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of pedorthics or a person certified as a Certified Pedorthist (C.Ped) whose practice is located outside of the State;

(4) pass all examinations that are required and approved by the Department; and

(5) be qualified to practice in accordance with nationally accepted standards of pedorthic care.

(c) The standards and requirements for licensure established by the Department shall be substantially equal to or in excess of standards commonly accepted in the profession of orthotics, prosthetics, or pedorthics. The Department shall adopt rules as necessary to set the standards and requirements.

(d) A person may be licensed in more than one discipline.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 55. License required ~~Transition period.~~

~~(a) Until January 1, 2002, a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted orthotic or prosthetic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an orthotist or a prosthetist shall meet the requirements of subsection (a) of Section 40 of this Act.~~

~~(b) Until January 1, 2002, a person certified as a Certified Pedorthist (CPed) by the Board for Certification in Pedorthics, Incorporated, or a person certified as a Certified Orthotist (CO) or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted pedorthic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a pedorthist shall meet the requirements of subsection (b) of Section 40 of this Act.~~

~~No (c) On and after January 1, 2002, no person shall practice orthotics, prosthetics, or pedorthics in this State or hold himself or herself out as being able to practice either profession, unless he or she is licensed in accordance with Section 40 of this Act.~~

~~(d) Notwithstanding any other provision of this Section, a person who has practiced full time for the past 7 years in a prosthetic/orthotic facility as an orthotist, prosthetist, prosthetist/orthotist, assistant, or~~

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~~technician or in a pedorthic facility as a pedorthist or pedorthic technician on the effective date of this Act may file an application with the Board within 60 days after the enforcement of this Section begins pursuant to Section 56 of this Act in order to continue to practice orthotics, prosthetics, or pedorthics at his or her identified level of practice. The applicant shall be issued a license or certificate of registration to practice orthotics, prosthetics, or pedorthics under the provisions of this Act without examination upon receipt by the Department of payment of the licensing or registration fee required under Section 70 of this Act and after the Board has completed an investigation of the applicant's work history. The Board shall complete its investigation for the purposes of this Section within 6 months of the date of the application. The investigation may include, but is not limited to, completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/57)

(Section scheduled to be repealed on January 1, 2010)

Sec. 57. Limitation on provision of care and services. A licensed orthotist, ~~prosthetist~~, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from (i) a licensed physician, (ii) a podiatrist, (iii) an advanced practice nurse who has a written collaborative agreement with a collaborating physician or podiatrist that specifically authorizes ordering the services of an orthotist, prosthetist or pedorthist, (iv) an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses clinical privileges to order services of an orthotist, prosthetist, or pedorthist, or (v) a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by his or her supervising physician. A licensed podiatrist or advanced practice nurse collaborating with a podiatrist may only order care or services concerning the foot from a licensed prosthetist. A licensed prosthetist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Renewal; restoration; military service; ~~inactive status.~~

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish continuing education requirements for the renewal of a license. These requirements shall be based on established standards of competence.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by (i) making application to the Department, (ii) filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, and (iii) paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was (i) in federal service on active duty within the armed forces of the United States or with the State militia called into service or training or (ii) in training or education under the supervision of the United States preliminary to induction into military service may have his or her license renewed or restored without paying a lapsed renewal fee if, within 2 years after termination from the service, training, or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training, or education has been terminated.

(d) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(e) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 60 of this Act.

(f) An orthotist, prosthetist, or pedorthist whose license is on inactive status shall not practice orthotics, prosthetics, or pedorthics in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Endorsement. The Department may, at its discretion, license as either an orthotist, prosthetist,

or pedorthist, without examination and on payment of the required fee, an applicant who is an orthotist, prosthetist, or pedorthist who is (i) licensed under the laws of another state, territory, or country, if the requirements for licensure in that state, territory, or country in which the applicant was licensed were, at the date of his or her licensure, substantially equal to the requirements in force in this State on that date or (ii) certified by a national certification organization with educational and testing standards as set forth by rule equal to or more stringent than the licensing requirements of this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/77 new)

Sec. 77. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the person that payment of fees and fines shall be made to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license, designed to cover all expenses of processing the application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(225 ILCS 84/80)

(Section scheduled to be repealed on January 1, 2010)

Sec. 80. Roster of licensees and registrants. The Department shall maintain a current roster of the names and addresses of all licensees, registrants, and all persons whose licenses have been suspended, ~~or~~ revoked, ~~or otherwise disciplined within the previous year.~~ This roster shall be available upon written request and payment of the required fee.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/85)

(Section scheduled to be repealed on January 1, 2010)

Sec. 85. Practice by corporations. Nothing in this Act shall restrict licensees from forming professional service corporations under and in accordance with the provisions of the Professional Service Corporation Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, or may revoke or suspend a license, or may suspend, place on probation, ~~ensure,~~ or reprimand a licensee or take other disciplinary or non-disciplinary action as the Department may deem proper, including, but not limited to, the imposition of fines not to exceed \$10,000 for each violation for one or any combination of the following:

(1) Making a material misstatement in furnishing information to the Department or the

Board.

(2) Violations of or negligent or intentional disregard of this Act or its rules.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession ~~Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.~~

(4) Making a misrepresentation for the purpose of obtaining a license.

(5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(6) Gross negligence under this Act.

(7) Aiding or assisting another person in violating a provision of this Act or its rules.

(8) Failing to provide information within 60 days in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct or conduct of a character likely to deceive, defraud, or harm the public.

(10) ~~Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug. Habitual intoxication or addiction to the use of drugs.~~

(11) Discipline by another state or territory of the United States, the federal government, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.

(12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(13) A finding by the Board that the licensee or registrant, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Abandonment of a patient or client.

(15) ~~Willfully~~ ~~Willfully~~ making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.

(16) ~~Willfully~~ ~~Willfully~~ failing to report an instance of suspected child abuse or neglect as required by

the Abused and Neglected Child Reporting Act.

(17) ~~Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability. Physical illness including, but not limited to, deterioration through the aging process or loss of motor skill that results in the inability to practice the profession with reasonable judgement, skill, or safety.~~

(18) Solicitation of professional services using false or misleading advertising.

~~(b) In enforcing this Section, the Department or Board upon a showing of a possible violation, may compel a licensee or applicant to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for the immediate suspension of his or her license until the individual submits to the examination if the Department finds that the refusal to submit to the examination was without reasonable cause as defined by rule.~~

~~In instances in which the Secretary immediately suspends a person's license for his or her failure to submit to a mental or physical examination, when directed, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay.~~

~~In instances in which the Secretary otherwise suspends a person's license pursuant to the results of a compelled mental or physical examination, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license. The determination by a circuit court that a licensee or registrant is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will end only upon (i) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient and (ii) the recommendation of the Board to the Director that the licensee or registrant be allowed to resume his or her practice.~~

~~(c) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State in accordance with subsection (a)(5) of Section 15~~

~~of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15). In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.~~

~~If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Director for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.~~

~~In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.~~

~~(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with subsection (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).~~

~~(e) The Department may refuse to issue or renew a license, or may revoke or suspend a license, for failure to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Injunction; cease and desist order.

(a) If any person, company, or corporation violates a provision of this Act, the Secretary Director may, in the name of the People of the State of Illinois and through the Attorney General of the State of Illinois or the States Attorney of the county in which the violation is alleged to have occurred, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person, company, or corporation has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and

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penalties provided by this Act.

(b) If a person practices as an orthotist, prosthetist, or pedorthist or holds himself or herself out as an orthotist, prosthetist, or pedorthist without being licensed ~~or registered~~ under the provisions of this Act, then any other licensed ~~or registered~~ orthotist, prosthetist, or pedorthist, any interested party, or any person injured by the person may, in addition to the ~~Secretary~~ Director, petition for relief as provided in subsection (a) of this Section.

(c) If a company or corporation holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(d) Whenever in the opinion of the Department a person, company, or corporation violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him, ~~or her~~, ~~or it~~. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Investigations; notice and hearing.

(a) The Department may investigate the actions of an applicant or of a person or persons holding or claiming to hold a license.

(b) The Department may also investigate the actions of a company or corporation that holds itself out to provide orthotic, prosthetic, or pedorthic services with or without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services.

(c) Before refusing to issue or renew a license or taking any other disciplinary action with respect to a license, the Department shall, at least ~~30~~ 40 days prior to the date set for the hearing, notify in writing the applicant for or holder of a license of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or by certified or registered mail to the respondent at the address of record with the Department ~~disclosed on his or her last notification to the Department~~. At the time and place fixed in the notice, the Board shall proceed to hear the charges. The parties or their counsel shall be afforded ample opportunity to present statements, testimony, evidence, and argument that may be pertinent to the charges or to the defense to the charges. The Board may continue the hearing from time to time.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/103 new)

Sec. 103. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or any combination thereof, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

(b) The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

(225 ILCS 84/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. Record of proceedings ~~Transcript~~. The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of any a case involving the refusal to issue or renew a license. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcripts ~~transcript~~ of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/107 new)

Sec. 107. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice orthotics, prosthetics, or pedorthics or performs the functions and duties of orthotist, prosthetist, or pedorthist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense as determined

by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) Any company or corporation that offers to practice, attempts to practice, or holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(c) The Department has the authority and power to investigate any and all unlicensed activity.

(d) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(225 ILCS 84/110)

(Section scheduled to be repealed on January 1, 2010)

Sec. 110. Compelling testimony. A circuit court may, upon application of the Secretary Director or his or her designee or the applicant or licensee against whom proceedings under Section 100 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony and requiring the production of documents, papers, files, books, and records in connection with a hearing or investigation. The court may compel obedience to its order through contempt proceedings.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. Board findings and recommendations. At the conclusion of a hearing, the Board shall present to the Secretary Director a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary Director. The report of findings and recommendations of the Board shall be the basis for the Department's order for the refusal or for the granting of a license, unless the Secretary Director determines that the Board report is contrary to the manifest weight of the evidence, in which case the Secretary Director may issue an order in contravention to the Board report. A Board finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 120. Motion for rehearing. In any case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing is denied, upon the denial, the Secretary Director may enter an order in accordance with recommendations of the Board, except as provided in Section 115 of this Act. If the respondent orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which the motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/125)

(Section scheduled to be repealed on January 1, 2010)

Sec. 125. Rehearing on order of Secretary Director. Whenever the Secretary Director is not satisfied that substantial justice has been done in the revocation, suspension, or refusal to issue or renew a license the Secretary Director may order a rehearing by the same or other examiners.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/130)

(Section scheduled to be repealed on January 1, 2010)

Sec. 130. Appointment of hearing officer. The Secretary Director shall have the authority to appoint

an attorney licensed to practice law in the State of Illinois to serve as a hearing officer in an action for refusal to issue or renew a license or to discipline a licensee. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Secretary Director. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary Director. If the Board fails to present its report within the 60-day period, the Secretary Director shall issue an order based on the report of the hearing officer. If the Secretary Director determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report. Nothing in this Section shall prohibit a Board member from attending an informal conference and such participation shall not be grounds for recusal from any other proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/135)

(Section scheduled to be repealed on January 1, 2010)

Sec. 135. Order or certified copy. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary Director, shall be prima facie proof:

- (1) that the signature is the genuine signature of the Secretary Director;
- (2) that the Secretary Director is duly appointed and qualified; and
- (3) that the Board and its members are qualified to act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. Temporary suspension of a license. The Secretary Director may temporarily suspend the license of an orthotist, prosthetist, or pedorthist without a hearing simultaneously with the institution of proceedings for a hearing provided for in Section 95 of this Act if the Secretary Director finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Secretary Director temporarily suspends a license without a hearing, a hearing by the Board must be held within 30 days after the suspension and completed without appreciable delay.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/160)

(Section scheduled to be repealed on January 1, 2010)

Sec. 160. Certifications of record; costs. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court with the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which cost shall be determined by the Department shall be computed at the rate of 20 cents per page of the record. Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 91-590, eff. 1-1-00.)

Section 15. The Perfusionist Practice Act is amended by changing Sections 10, 15, 25, 45, 60, 70, 90, 95, 100, 105, 115, 120, 140, 145, 150, 170, 180, 185, 200, 220, and 230 and by adding Sections 75, 93, 135, 142, 155, 212, and 227 as follows:

(225 ILCS 125/10)

(Section scheduled to be repealed on January 1, 2010)

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

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department.

"Board" means the Board of Licensing for Perfusionists ~~Perfusion~~.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of Professional Regulation.

"Extracorporeal circulation" means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver, or other organs.

"New graduate perfusionist" means a perfusionist practicing within a period of one year since the date of graduation from a Commission on Accreditation of Allied Health Education Programs accredited perfusion education program.

"Perfusion" means the functions necessary for the support, treatment, measurement, or

supplementation of the cardiovascular systems or other organs, or a combination of those functions, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a physician licensed to practice medicine in all its branches.

"Perfusionist" means a person, qualified by academic and clinical education, to operate the extracorporeal circulation equipment during any medical situation where it is necessary to support or replace a person's cardiopulmonary, circulatory, or respiratory function. A perfusionist is responsible for the selection of appropriate equipment and techniques necessary for support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of a patient, including the safe monitoring, analysis, and treatment of physiologic conditions under an order and under the supervision of a physician licensed to practice medicine in all its branches and in coordination with a registered professional nurse.

"Perfusion protocols" means perfusion related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.

"Physician" or "operating physician" means a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Powers and duties of the Department. Subject to the provisions of this Act, the Department may:

(a) Pass upon the qualifications of applicants for licensure by endorsement. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing Acts and shall exercise any other powers and duties necessary for effectuating the purposes of this Act.

(b) Conduct hearings on proceedings to refuse to issue or renew a license, or to revoke or suspend a license, or to place on probation, reprimand, or take any other disciplinary or non-disciplinary action with regard to a person licensed under this Act. The Department may adopt rules consistent with the provisions of this Act for its administration and enforcement and may prescribe forms that shall be issued in connection with this Act. The rules may include but are not limited to standards and criteria for licensure, professional conduct, and discipline.

(c) Formulate rules required for the administration of this Act.

(d) Obtain written recommendations from the Board regarding (i) curriculum content, standards of professional conduct, formal disciplinary actions, and the formulation of rules, and (ii) when petitioned by the applicant, opinions regarding the qualifications of applicants for licensing.

(e) Maintain rosters of the names and address of all licensees, and all persons whose licenses have been suspended, revoked, or denied renewal for cause or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25. Board of Licensing for Perfusionists ~~Perfusion~~.

(a) The Secretary ~~Director~~ shall appoint a Board of Licensing for Perfusionists which ~~Perfusion to consist of 5 persons who shall be appointed by and shall serve in an advisory capacity to the Secretary Director. The Board shall be comprised of 5 persons appointed by the Secretary, who shall give due consideration to recommendations by members of the profession of perfusion and perfusion organizations within the State.~~

(b) Two members must hold an active license to engage in the practice of perfusion in this State, one member must be a physician licensed under the Medical Practice Act of 1987 who is board certified in and actively engaged in the practice of cardiothoracic surgery, one member must be a licensed registered professional nurse certified by the Association of Operating Room Nurses, and one member must be a member of the public who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with the profession. ~~The initial appointees who would otherwise be required to be licensed perfusionists shall instead be individuals who have been practicing perfusion for at least 5 years and who are eligible under this Act for licensure as perfusionists.~~

(c) Members shall serve 4-year terms and until their successors are appointed and qualified, except

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that, of the initial appointments, 2 members shall be appointed to serve for 2 years, 2 members shall be appointed to serve for 3 years, and 1 member shall be appointed to serve for 4 years, and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 consecutive years.

(d) Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. ~~Initial terms shall begin upon the effective date of this Act.~~

(e) The Board shall annually elect a chairperson and a vice-chairperson who shall preside in the absence of the chairperson.

(f) ~~Insofar as possible, the licensed professionals appointed to serve on the Board shall be generally representative of the occupational and geographical distribution of licensed professionals within The membership of the Board should reasonably reflect representation from the various geographic areas in this State.~~

(g) ~~The Secretary Director may remove or suspend terminate the appointment of any member for cause at any time before the expiration of his or her term. The Secretary shall be the sole arbiter of cause.~~

(h) ~~The Secretary Director may give due consideration to all recommendations of the Board.~~

(i) ~~Three A majority of the Board members currently appointed shall constitute a quorum. A quorum is required for all Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all the duties of the Board.~~

(j) ~~Except for willful or wanton misconduct, members Members of the Board shall be immune from liability have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/45)

(Section scheduled to be repealed on January 1, 2010)

Sec. 45. Application of Act. This Act shall not be construed to prohibit the following:

(1) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

(2) a student enrolled in an accredited perfusion education program from performing perfusion services if perfusion services performed by the student:

(A) are an integral part of the student's course of study; and

(B) are performed under the direct supervision of a licensed perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area;

(3) a new graduate from performing perfusion services for a period of 14 months after the date of his or her graduation from a perfusion education program that is accredited by the Commission on Accreditation of Allied Health Education Programs, if perfusion services performed by the new graduate perfusionist ~~:(A) are necessary to fulfill the eligibility requirements for the ABCP certification examination required under subsection (3) of Section 30; and (B) are performed under the direct supervision and responsibility of a licensed perfusionist or a physician licensed to practice medicine in all its branches who is assigned to supervise the graduate perfusionist and who is on duty and immediately available in the assigned patient care area;~~

(4) any legally qualified perfusionist employed by the United States government from engaging in the practice of perfusion while in the discharge of his or her official duties; or

(5) one or more licensed perfusionists from forming a professional service corporation in accordance with the Professional Service Corporation Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Display of license; change of address. ~~(a) The Department shall issue a perfusionist license to a person meeting the application and qualification requirements of Section 30 of this Act. However, a person is eligible for one year from the effective date of this Act to make application to the Board and receives a license notwithstanding the requirements of Section 30 of this Act if the person is actively engaged in the practice of perfusion consistent with applicable law and if the person has at least 5 years experience operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function between January 1, 1991 and the effective date of this Act.~~

~~(b) A licensee shall maintain on file at all times during which the licensee provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Renewal, reinstatement or restoration of license; ~~continuing education~~; military service. The expiration date and renewal period for each license issued under this Act shall be set by the Department by rule. A licensee may renew his or her license during the month preceding the expiration date of the license by paying the required fee. It is the responsibility of the licensee to notify the Department in writing of a change of address. Renewal shall be conditioned on paying the required fee and meeting other requirements as may be established by rule.

A licensee who has permitted his or her license to expire or who has had his or her license on inactive status may have the license restored by making application to the Department, by filing proof acceptable to the Department of his or her fitness to have the license restored, and by paying the required fees. Proof of fitness may include sworn evidence certifying to active lawful practice in another jurisdiction.

If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, his or her fitness for restoration of the license and shall establish procedures and requirements for restoration. However, a licensee whose license expired while he or she was (1) in federal service on active duty with the Armed Forces of the United States or the State Militia called into service or training or (2) in training or education under the supervision of the United States before induction into the military service, may have the license restored without paying any lapsed renewal fees if within 2 years after honorable termination of the service, training, or education he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/75 new)

Sec. 75. Continuing education. The Department may adopt rules of continuing education for licensees that require 30 hours of continuing education per 2 year license renewal cycle. The rules shall address variances in part or in whole for good cause, including without limitation temporary illness or hardship. The Department may approve continuing education programs offered, provided, and approved by the American Board of Cardiovascular Perfusion, or its successor agency. The Department may approve additional continuing education sponsors. Each licensee is responsible for maintaining records of his or her completion of the continuing education and shall be prepared to produce the records when requested by the Department.

(225 ILCS 125/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Fees; deposit of fees and fines; ~~returned checks~~.

(a) The Department shall set by rule fees for the administration of this Act, including, but not limited to, fees for initial and renewal licensure and restoration of a license. The fees shall be nonrefundable.

(b) All of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund. The monies deposited into the Fund shall be appropriated to the Department for expenses of the Department in the administration of this Act.

~~(c) A person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application without a hearing. If the person seeks a license after termination or denial, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to defray the expenses of processing the application. The Director may waive the fines due under this Section in individual cases if the Director finds that the fines would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-580, eff. 1-1-00; 92-146, eff. 1-1-02.)

(225 ILCS 125/93 new)

Sec. 93. Returned checks; penalty for insufficient funds. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall

notify the person that payment of the fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. After such termination of a license or denial of an application, the same individual may only apply to the Department for restoration or issuance of a license after he or she has paid all fees and fines owed to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(225 ILCS 125/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Roster. The Department shall maintain a roster of the names and addresses of all licensees and of all persons ~~that whose licenses~~ have been disciplined under this Act. This roster shall be available upon ~~written~~ request and payment of the required fee.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Unlicensed practice; civil penalty. A person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a licensed perfusionist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. ~~Disciplinary actions. Grounds for disciplinary action.~~

(a) The Department may refuse to issue, renew, or restore a license, or may revoke or suspend a license, or may place on probation, ~~ensure~~, reprimand, or take other disciplinary or ~~non-disciplinary~~ action with regard to a person licensed under this Act, including but not limited to the imposition of fines not to exceed \$10,000 ~~\$5,000~~ for each violation, for ~~any~~ one or ~~any~~ combination of the following causes:

(1) Making a material misstatement in furnishing information to the Department.

(2) ~~Violation~~ ~~Violating a provision~~ of this Act or ~~any rule~~ ~~its rules promulgated under this Act.~~

(3) Conviction ~~of~~, or entry of a plea of guilty or nolo contendere to, ~~any crime that is a felony~~ under the laws of ~~the a~~ United States or any state or territory thereof, or any crime ~~jurisdiction of a crime~~ that is ~~a felony~~ or a misdemeanor of which ~~an~~

essential element ~~of which~~ is dishonesty, or ~~any of a~~ crime that is directly related to the practice as a perfusionist.

(4) Making a misrepresentation for the purpose of obtaining, renewing, or restoring a license.

(5) ~~Aiding~~ ~~Wilfully aiding~~ or assisting another person in violating a provision of this Act or its rules.

(6) Failing to provide information within 60 days in response to a written request made by the Department.

(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public, as defined by rule of the Department.

(8) Discipline by another ~~state, the District of Columbia, or territory, United States jurisdiction~~ or a foreign nation, if at least one of the grounds for

discipline is the same or substantially equivalent to those set forth in this Section.

(9) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(10) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(11) Wilfully making or filing false records or reports in his or her practice, including but not limited to false records or reports filed with State agencies ~~or departments.~~

(12) Wilfully making or signing a false statement, certificate, or affidavit to induce

payment.

(13) Wilfully failing to report an instance of suspected child abuse or neglect as required under the Abused and Neglected Child Reporting Act.

(14) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(15) Employment of fraud, deception, or any unlawful means in applying for or securing a license as a perfusionist.

(16) Allowing another person to use his or her license to practice.

(17) Failure to report to the Department (A) any adverse final action taken against the licensee by another licensing jurisdiction, government agency, law enforcement agency, or any court or (B) liability for conduct that would constitute grounds for action as set forth in this Section.

(18) Inability to practice the profession with reasonable judgment, skill or safety as a result of a physical illness, including but not limited to deterioration through the aging process or loss of motor skill, or a mental illness or disability. Habitual intoxication or addiction to the use of drugs.

(19) Inability Physical illness, including but not limited to deterioration through the aging process or loss of motor skills, which results in the inability to practice the profession for which he or she is licensed with reasonable

judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

(20) Gross malpractice resulting in permanent injury or death of a patient.

(21) Immoral conduct in the commission of an act related to the licensee's practice, including but not limited to sexual abuse, sexual misconduct, or sexual exploitation.

(22) Violation of the Health Care Worker Self-Referral Act.

(23) Solicitation of business or professional services, other than permitted advertising.

(24) Conviction of or cash compromise of a charge or violation of the Illinois Controlled Substances Act.

(25) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(26) Practicing under a false name or, except as allowed by law, an assumed name.

(27) Violating any provision of this Act or the rules promulgated under this Act, including, but not limited to, advertising.

(b) A licensee or applicant who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling or treatment as required by the Department shall not be considered discipline of the licensee. If the licensee refuses to enter into a care, counseling or treatment agreement or fails to abide by the terms of the agreement the Department may file a complaint to suspend or revoke the license or otherwise discipline the licensee. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in the disciplinary actions involving physical or mental illness or impairment. The Department may refuse to issue or may suspend the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay a final assessment of the tax, penalty, or interest as required by a tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied.

(b-5) The Department may refuse to issue or may suspend, without a hearing as provided for in the Civil Administrative Code of Illinois, the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. The suspension will end only upon a finding by a court that the licensee is no longer subject to the involuntary admission or judicial admission and issues an order so finding and discharging the licensee; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice. The determination by a circuit court that a licensee is subject to

~~involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon (1) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, (2) issuance of an order so finding and discharging the patient, and (3) the recommendation of the Disciplinary Board to the Director that the licensee be allowed to resume his or her practice.~~

(d) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning his or her examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause as defined by rule, shall be grounds for either the immediate suspension of his or her license or immediate denial of his or her application.

If the Secretary immediately suspends the license of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Any licensee suspended or otherwise affected under this subsection (d) shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with the acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. Injunctive action; cease ~~Cease~~ and desist order.

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(c) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in addition to the Secretary or State's Attorney, may petition for relief as provided in subsection (a) of this Section.

(a) If a person violates a provision of this Act, the Director, in the name of the People of the State of Illinois through the Attorney General of the State of Illinois, or the State's Attorney of a county in which the violation occurs, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order without notice or bond and may preliminarily and permanently enjoin the violation. If it is established that the licensee has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in

addition to the Director or State's Attorney, may petition for relief as provided in subsection (a) of this Section.

(e) ~~If the Department determines that a person violated a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him or her. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.~~  
(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/120)

(Section scheduled to be repealed on January 1, 2010)

~~Sec. 120. Investigation; notice; hearing. The Department may Licenses may be refused, revoked, suspended, or otherwise disciplined in the manner provided by this Act and not otherwise. The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts that if proven would constitute grounds for refusal to issue or for suspension or revocation under this Act, investigate the actions of any applicant or any a person applying for, holding, or claiming to hold a perfusionist license. The Department shall, before refusing to issue or renew, suspending, or revoking a license or taking other discipline pursuant to Section 105 of this Act, and at least 30 days prior to the date set for the hearing, (i) notify in writing the applicant or licensee of any charges made and the time and the place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of the notice, and ; shall direct afford the applicant or licensee an opportunity to be heard in person or by counsel in reference to the charges, and direct the applicant or licensee to file a written answer to the Department under oath within 20 days after the service on him or her of the notice and (iii) inform the accused applicant or licensee that , if he or she fails to failure to file an answer , will result in default will be being taken against him or her or the applicant or licensee and that his or her the license may be suspended, revoked, or placed on probationary status, or other disciplinary action may be taken with regard to the licensee, including limiting the scope, nature, or extent of practice, as the Department Director may consider deem proper. At the time and place fixed in the notice, the Board shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Board may continue the hearing from time to time. In case Written notice may be served by personal delivery to the applicant or licensee or by mailing the notice by certified mail to his or her last known place of residence or to the place of business last specified by the applicant or licensee in his or her last notification to the Department. If the person , after receiving the notice, fails to file an answer after receiving notice, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status or the Department may take whatever disciplinary action it considers deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The written notice may be served by personal delivery or by certified mail to the address of record or the address specified by the accused in his or her last communication with the Department. At the time and place fixed in the notice, the Department shall proceed to a hearing of the charges and both the applicant or licensee and the complainant shall be afforded ample opportunity to present, in person or by counsel, any statements, testimony, evidence, and arguments that may be pertinent to the charges or to their defense. The Department may continue a hearing from time to time. If the Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing shall have been continued, the Department may continue the hearing for a period not to exceed 30 days.  
(Source: P.A. 91-580, eff. 1-1-00.)~~

(225 ILCS 125/135 new)

~~Sec. 135. Certification of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. The court may dismiss the action if the plaintiff fails to file such receipt.~~

(225 ILCS 125/140)

(Section scheduled to be repealed on January 1, 2010)

~~Sec. 140. Subpoena; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person in this State and to take testimony either orally or by deposition, with the same fees and mileage and in the same manner as is prescribed by law in judicial proceedings in civil cases in circuit courts of this State. The Secretary, the designated hearing officer,~~

and any Board member has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department. The Director and any Disciplinary Board member designated by the Director shall each have the authority to administer, at any hearing that the Department is authorized to conduct under this Act, oaths to witnesses and any other oaths authorized to be administered by the Department under this Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/142 new)

Sec. 142. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(225 ILCS 125/145)

(Section scheduled to be repealed on January 1, 2010)

Sec. 145. Findings of fact and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary ~~Director~~ a written report of its findings of fact, conclusions of law, and recommendations. ~~The~~ In the report, the Board shall contain make a finding of whether or not the accused person charged licensee or applicant violated a provision of this Act or its rules. The Board and shall specify the the nature of any violations the violation or failure to comply and shall make its recommendations to the Secretary. In making its recommendations for disciplinary action discipline, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused respondent and the potential for future harm to the public, including but not limited to previous discipline of that respondent by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made, and whether the incident or incidents complained of appear to be isolated or a pattern of conduct. In making its recommendations for discipline, the Board shall seek to ensure that the severity of the discipline recommended bears some reasonable relationship to the severity of the violation.

The report of findings of fact, conclusions of law, and recommendation of the Board shall be the basis for the Department's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the Board, the Secretary may issue an order in contravention of the Board recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. ~~Board Service of report, rehearing.~~ At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this act for the service of a notice of hearing. ~~In a case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided under Section 120 of this Act for the service of the notice of hearing.~~ Within 20 days after the service, the applicant or licensee respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for a rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the specified time time specified for filing such a the motion, or if a motion for rehearing is denied, then upon the denial the Secretary Director may enter an order in accordance with recommendations of the Board, except as provided in Section 160 ~~or 165~~ of this Act. If the applicant or licensee respondent orders a transcript of the record from the reporting service and pays for the transcript of the record within the time for filing a motion for rehearing, the 20-day period within which such a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee respondent.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/155 new)

Sec. 155. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation or suspension of a license, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, the Secretary may order a rehearing by the same or another examiner.

(225 ILCS 125/170)

(Section scheduled to be repealed on January 1, 2010)

Sec. 170. Hearing officer. ~~The Secretary~~ ~~Notwithstanding the provisions of Section 120 of this Act,~~ ~~the Director~~ shall have the authority to appoint an attorney licensed to practice law in this State to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee ~~a hearing authorized under Section 120 of this Act. The Director shall notify the Board of an appointment.~~ The hearing officer shall have full authority to conduct the hearing. A Board member or members may attend the hearing. ~~The Board has the right to have at least one member present at a hearing conducted by a hearing officer appointed under this Section.~~ The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board ~~and the Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and to present its findings of fact, conclusions of law, and recommendations to the Secretary ~~and to all parties to the proceeding Director~~. If the Board fails to present its report within the 60-day period, ~~the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after such request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days of such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings in accordance with such order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within its 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding the foregoing, should the Secretary, upon review, determine that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license, or other disciplinary action taken per the result of the entry of such hearing officer's report, the Secretary may order a rehearing by the same or another examiner, the Director shall issue an order based on the report of the hearing officer.~~ If the Secretary ~~Director~~ disagrees ~~in any regard with the recommendation report~~ of the Board or hearing officer, he or she may issue an order in contravention of the ~~recommendation report~~. ~~The Director shall provide a written explanation to the Board on a deviation from the Board's report and shall specify with particularity the reasons for his or her deviation in the final order.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/180)

(Section scheduled to be repealed on January 1, 2010)

Sec. 180. Order or certified copy; prima facie proof. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the ~~Secretary Director~~, shall be prima facie proof that:

- (1) the signature is the genuine signature of the ~~Secretary Director~~;
- (2) the ~~Secretary Director~~ is duly appointed and qualified; and
- (3) the Board and its members are qualified to act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/185)

(Section scheduled to be repealed on January 1, 2010)

Sec. 185. Restoration of a suspended or revoked license. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee upon written recommendation of the Board unless, after an investigation and a hearing, the ~~Board Department~~ determines that restoration is not in the public interest. Where circumstances of suspension or revocation so indicate, or on the recommendation of the Board, the Department may require an examination of the licensee before restoring his or her license.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/200)

(Section scheduled to be repealed on January 1, 2010)

Sec. 200. Summary Temporary suspension of a license. The ~~Secretary Director~~ may summarily temporarily suspend the license of a perfusionist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 120 of this Act, if the ~~Secretary Director~~ finds that evidence in the ~~Secretary's~~ his or her possession indicates that continuation in practice would constitute an imminent danger to the public. In the event ~~if~~ the ~~Secretary Director~~ temporarily suspends a license of a licensed perfusionist without a hearing, a hearing must be commenced ~~by the Department shall be held~~ within 30 days after the suspension has occurred and shall be concluded as expeditiously as may be practical without appreciable delay.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/212 new)

Sec. 212. Violations. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense.

(225 ILCS 125/220)

(Section scheduled to be repealed on January 1, 2010)

Sec. 220. Unlicensed practice; civil penalties.

(a) No person shall practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a perfusionist without a license issued by the Department to that person under this Act.

(b) In addition to any other penalty provided by law, a person who violates subsection (a) of this Section shall pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions of set forth in this Act ~~regarding a hearing for the discipline of a licensee.~~

(c) The Department has the authority and power to investigate any and all unlicensed activity.

(d) The civil penalty assessed under this Act shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon on the judgment in the same manner as a judgment from a court of record.

(e) All moneys collected under this Section shall be deposited into the General Professions Dedicated Fund.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/227 new)

Sec. 227. Consent Order. At any point in the proceedings as provided in Sections 85 through 130 and Section 150, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(225 ILCS 125/230)

(Section scheduled to be repealed on January 1, 2010)

Sec. 230. Home rule powers. The regulation and licensing of perfusionists are exclusive powers and functions of the State. A home rule unit shall not regulate or license perfusionists. This Section is a denial and limitation under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 84/56 rep.) (225 ILCS 84/65 rep.)

Section 20. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by repealing Sections 56 and 65.

(225 ILCS 125/20 rep.) (225 ILCS 125/42 rep.) (225 ILCS 125/110 rep.) (225 ILCS 125/130 rep.) (225 ILCS 125/160 rep.) (225 ILCS 125/175 rep.) (225 ILCS 125/205 rep.)

Section 25. The Perfusionist Practice Act is amended by repealing Sections 20, 42, 110, 130, 160, 175, and 205.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Martinez, **House Bill No. 2440**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff  
Bivins

Duffy  
Forby

Kotowski  
Lauzen

Raoul  
Richter

[May 21, 2009]

Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Lightford, **House Bill No. 2537** was recalled from the order of third reading to the order of second reading.

Senator Lightford offered the following amendment and moved its adoption:

##### AMENDMENT NO. 2 TO HOUSE BILL 2537

AMENDMENT NO. 2. Amend House Bill 2537 on page 1, line 19, by inserting after the period the following:

"This prohibition applies only to the initial dissemination of the video recording, and shall not apply to any subsequent dissemination, storage, or viewing of that image."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Lightford offered the following amendment and moved its adoption:

##### AMENDMENT NO. 3 TO HOUSE BILL 2537

AMENDMENT NO. 3. Amend House Bill 2537 on page 2, line 3, by deleting "or"; and

on page 2, line 6, by replacing "11-20.1." with "11-20.1; or"; and

by inserting immediately below line 6 the following:

"(3) Any depiction of a nude image that would be protected as free speech under either the First Amendment to the United States Constitution or Article I, Section 4 of the Illinois Constitution."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Lightford, **House Bill No. 2537**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

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The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Wilhelmi
Dahl	Hutchinson	Noland	Mr. President
DeLeo	Jacobs	Pankau	
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Murphy, **House Bill No. 3325**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 47; NAYS 3.

The following voted in the affirmative:

Bond	Garrett	Lightford	Rutherford
Brady	Haine	Link	Sandoval
Burzynski	Harmon	Luechtefeld	Schoenberg
Clayborne	Hendon	Maloney	Silverstein
Collins	Holmes	Martinez	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Muñoz	Syverson
Dahl	Hutchinson	Murphy	Trotter
DeLeo	Jacobs	Radogno	Viverito
Delgado	Jones, E.	Raoul	Wilhelmi
Dillard	Kotowski	Righter	Mr. President
Duffy	Lauzen	Risinger	

The following voted in the negative:

Bomke  
Millner  
Pankau

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

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Senator Noland asked and obtained unanimous consent for the Journal to reflect his intention to vote in the affirmative on **House Bill 3325**.

Senator Lauzen asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the negative on **House Bill 3325**.

On motion of Senator Schoenberg, **House Bill No. 3767**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 51; NAYS 2.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bomke	Frerichs	Link	Risinger
Bond	Garrett	Luechtefeld	Rutherford
Brady	Haine	Maloney	Sandoval
Clayborne	Harmon	Martinez	Schoenberg
Collins	Hendon	McCarter	Silverstein
Cronin	Holmes	Meeks	Sullivan
Crotty	Hultgren	Millner	Syverson
Dahl	Hunter	Muñoz	Trotter
DeLeo	Jacobs	Noland	Viverito
Delgado	Jones, E.	Pankau	Wilhelmi
Demuzio	Jones, J.	Radogno	Mr. President
Dillard	Koehler	Raoul	

The following voted in the negative:

Bivins  
Burzynski

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Schoenberg, **House Bill No. 2435**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAY 1.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan

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Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Raoul	

The following voted in the negative:

Lauzen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).  
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lightford, **House Bill No. 3874**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Stears
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### MESSAGE FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 51

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 51

[May 21, 2009]

House Amendment No. 2 to SENATE BILL NO. 51  
Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 51**

AMENDMENT NO. 1. Amend Senate Bill 51 by replacing everything after the enacting clause with the following:

"ARTICLE 1

Section 1-1. Short title. This Article may be cited as the Local Government Electronic Reverse Auction Act.

Section 1-5. Unit of local government defined. As used in this Article, "unit" and "unit of local government" mean a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution.

Section 1-10. Reverse auction. Notwithstanding any other provision of law and in accordance with rules adopted by the unit, a unit of local government, whether or not it is a home rule unit as defined in Section 6 of Article VII of the Illinois Constitution, may procure supplies or services through a competitive electronic auction bidding process after the unit's purchasing officer explains in writing to the unit's governing body his or her determination that the use of such a process will be in the best interest of the unit.

The purchasing officer shall publish that determination in the same manner required by law for the unit's invitations for bids.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as required by law for the unit's other invitations for bids.

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as otherwise provided by law.

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided by law.

Extensions of the date for the award may be made by mutual written consent of the purchasing officer and the lowest responsible bidder.

Section 1-15. Application. This Act does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

ARTICLE 95

Section 95-10. The Deposit of State Moneys Act is amended by changing Section 22.5 as follows:  
(15 ILCS 520/22.5) (from Ch. 130, par. 41a)

(For force and effect of certain provisions, see Section 90 of P.A. 94-79)

Sec. 22.5. Permitted investments. The State Treasurer may, with the approval of the Governor, invest and reinvest any State money in the treasury which is not needed for current expenditures due or about to become due, in obligations of the United States government or its agencies or of National Mortgage Associations established by or under the National Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage participation certificates representing undivided interests in specified, first-lien conventional residential Illinois mortgages that are underwritten, insured, guaranteed, or purchased by the Federal Home Loan Mortgage Corporation or in Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act. All such obligations shall be considered as

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cash and may be delivered over as cash by a State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, purchase any state bonds with any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on the bonds. The bonds shall be considered as cash and may be delivered over as cash by the State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the treasury that is not needed for current expenditure due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in shares, withdrawable accounts, and investment certificates of savings and building and loan associations, incorporated under the laws of this State or any other state or under the laws of the United States; provided, however, that investments may be made only in those savings and loan or building and loan associations the shares and withdrawable accounts or other forms of investment securities of which are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may not invest State money in any savings and loan or building and loan association unless a commitment by the savings and loan (or building and loan) association, executed by the president or chief executive officer of that association, is submitted in the following form:

The ..... Savings and Loan (or Building and Loan) Association pledges not to reject arbitrarily mortgage loans for residential properties within any specific part of the community served by the savings and loan (or building and loan) association because of the location of the property. The savings and loan (or building and loan) association also pledges to make loans available on low and moderate income residential property throughout the community within the limits of its legal restrictions and prudent financial practices.

The State Treasurer may, with the approval of the Governor, invest or reinvest, at a price not to exceed par, any State money in the treasury that is not needed for current expenditures due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on any State bonds, in bonds issued by counties or municipal corporations of the State of Illinois.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury which is not needed for current expenditure, due or about to become due, or any money in the State Treasury which has been set aside and held for the payment of the principal of and the interest on any State bonds, in participations in loans, the principal of which participation is fully guaranteed by an agency or instrumentality of the United States government; provided, however, that such loan participations are represented by certificates issued only by banks which are incorporated under the laws of this State or any other state or under the laws of the United States, and such banks, but not the loan participation certificates, are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury that is not needed for current expenditure, due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in any of the following:

- (1) Bonds, notes, certificates of indebtedness, Treasury bills, or other securities now or hereafter issued that are guaranteed by the full faith and credit of the United States of America as to principal and interest.
- (2) Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and instrumentalities.
- (2.5) Bonds, notes, debentures, or other similar obligations of a foreign government, other than the Republic of the Sudan, that are guaranteed by the full faith and credit of that government as to principal and interest, but only if the foreign government has not defaulted and has met its payment obligations in a timely manner on all similar obligations for a period of at least 25 years immediately before the time of acquiring those obligations.
- (3) Interest-bearing savings accounts, interest-bearing certificates of deposit, interest-bearing time deposits, or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.
- (4) Interest-bearing accounts, certificates of deposit, or any other investments constituting direct obligations of any savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States.
- (5) Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of the credit union must be located within the State of Illinois.
- (6) Bankers' acceptances of banks whose senior obligations are rated in the top 2

rating categories by 2 national rating agencies and maintain that rating during the term of the investment.

(7) Short-term obligations of corporations organized in the United States with assets exceeding \$500,000,000 if (i) the obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and mature not later than 180 days from the date of purchase, (ii) the purchases do not exceed 10% of the corporation's outstanding obligations, (iii) no more than one-third of the public agency's funds are invested in short-term obligations of corporations, and (iv) the corporation has not been identified as a forbidden entity, as that term is defined in Section 1-110.6 of the Illinois Pension Code, by an independent researching firm that specializes in global security risk that has been engaged by the State Treasurer.

(8) Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of the money market mutual fund is limited to obligations described in this Section and to agreements to repurchase such obligations.

(9) The Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act or in a fund managed, operated, and administered by a bank.

(10) Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of that Act and the regulations issued thereunder.

(11) Investments made in accordance with the Technology Development Act.

For purposes of this Section, "agencies" of the United States Government includes:

(i) the federal land banks, federal intermediate credit banks, banks for cooperatives, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;

(ii) the federal home loan banks and the federal home loan mortgage corporation;

(iii) the Commodity Credit Corporation; and

(iv) any other agency created by Act of Congress.

The Treasurer may, with the approval of the Governor, lend any securities acquired under this Act. However, securities may be lent under this Section only in accordance with Federal Financial Institution Examination Council guidelines and only if the securities are collateralized at a level sufficient to assure the safety of the securities, taking into account market value fluctuation. The securities may be collateralized by cash or collateral acceptable under Sections 11 and 11.1.

(Source: P.A. 94-79, eff. 1-27-06; for force and effect of certain provisions, see Section 90 of P.A. 94-79; 95-521, eff. 8-28-07.)

Section 95-15. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Sections 2705-590, 2705-595, and 2705-600 as follows:

(20 ILCS 2705/2705-590 new)

Sec. 2705-590. Office of Business and Workforce Diversity.

(a) The Office of Business and Workforce Diversity is established within the Department.

(b) The Office shall administer and be responsible for the Department's efforts to achieve greater diversity in its construction projects and in promoting equal opportunities within the Department. The responsibilities of the Office shall be administered between 2 distinct bureaus, designed to establish policy, procedures, and monitoring efforts pursuant to the governing regulations supporting minorities and those supporting women in contracting and workforce activities.

(c) Applicant firms must be found eligible to be certified as a Disadvantaged Business Enterprise (DBE) program under the federal regulations contained in 49 CFR part 26 and part 23. Only those businesses that are involved in highway construction-related services (non-vertical), consultant, and supplier/equipment rental/trucking services may be considered for participation in the Department's DBE program. Once certified, the firm's name shall be listed in the Illinois Unified Certification Program's (IL UCP) DBE Directory (Directory). The IL UCP's 5 participating agencies shall maintain the Directory to provide a reference source to assist bidders and proposers in meeting DBE contract goals. The Directory shall list the firms in alphabetical order and provides the industry categories/list and the districts in which the firms have indicated they are available.

(20 ILCS 2705/2705-595 new)

Sec. 2705-595. Prequalification of minority-owned and women-owned contractors. The Department shall, within 30 days after the effective date of this amendatory Act of the 96th General Assembly, establish a committee to review the rules for prequalification of contractors adopted by the Department at 44 Illinois Administrative Code 650. The purpose of the review is to determine whether the rules for prequalification operate as a barrier to minority-owned and women-owned contractors becoming

prequalified to bid on or make proposals for Department contracts. The committee shall, in addition to Department staff, be constituted with membership representing the construction industry and minority-owned and women-owned contractors. The committee shall complete its work and make recommendations for any changes to the rules for prequalification to the Secretary of Transportation within 180 days after the effective date of this amendatory Act of the 96th General Assembly.

(20 ILCS 2705/2705-600 new)

Sec. 2705-600. Target market program. In order to achieve all diversity goals, the Department's chief procurement officer shall develop and coordinate a target market program including the following elements:

(1) In January of each year, the chief procurement officer shall estimate the dollar value of all contracts to be awarded by the Department during that year and shall multiply that total by the minority-owned business target market percentage and the women-owned business target market percentage for that year. Contracts with an estimated dollar value equal to those products shall be set aside (prior to advertisement in the case of contracts to be awarded by bid) to be let only to qualified minority-owned businesses and qualified women-owned businesses, respectively.

(2) The chief procurement officer shall work with the officers and divisions of the Department to determine the appropriate designation of contracts as target market contracts. To the extent practical, the chief procurement officer shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from minority-owned businesses and women-owned businesses. In making the annual designation of target market contracts, the chief procurement officer shall attempt to vary the included procurements so that a variety of goods and services produced by different minority-owned businesses and women-owned businesses shall be set aside each year. Minority-owned businesses and women-owned businesses shall remain eligible to seek the procurement award of contracts that have not been designated as target market contracts.

(3) The Department shall develop a list of minority-owned businesses and women-owned businesses that are interested in participating in the target market program, including the type of contract in which each minority-owned businesses and women-owned businesses is interested in participating. The Department may make participation in the target market program dependent upon submission to stricter compliance audits than are generally applicable. No contract shall be eligible for inclusion in the target market program unless the list developed by the Department indicates that there are at least 3 qualified minority-owned businesses or women-owned businesses interested in participating in that type of contract. The Department may develop guidelines to regulate the level of participation of individual minority-owned businesses and women-owned businesses in the target market program in order to prevent the domination of the target market program by a small number of those entities. If necessary or useful, the Department may require minority-owned businesses and women-owned businesses to participate in training programs offered by the Department or other State agencies as a condition to participation in the target market program.

(4) Participation in the target market program shall be limited to minority-owned businesses and women-owned businesses and joint ventures consisting exclusively of minority-owned businesses, women-owned businesses, or both. The prime contractor on a target market contract may subcontract up to 50% of the dollar value of the target market contract to subcontractors who are not minority-owned businesses or women-owned businesses.

(5) The Department may include in the target market program contracts that are funded by the federal government and may vary the standards of eligibility of the target market program (for example, by allowing the participation of businesses owned by a person with a disability) to the extent necessary to comply with the federal funding requirements.

(6) If no satisfactory bid or response is received with respect to a contract that has been designated as part of the target market program, the Department may delete that contract from the target market program. In addition, the chief procurement officer shall thereupon designate and set aside for the target market program additional contracts corresponding in approximate value to the contract that was deleted from the target market program, to the extent feasible.

(7) In order to facilitate the performance of target market contracts by minority-owned businesses and women-owned businesses, the chief procurement officer may expedite payments under target market contracts, may reduce retainages under target market contracts when appropriate, and may pay the contractor a portion of the value of a target market contract at the time of award as an advance to cover start-up and mobilization costs.

Section 95-20. The Illinois Finance Authority Act is amended by changing Section 801-40 as follows:  
(20 ILCS 3501/801-40)

[May 21, 2009]

Sec. 801-40. In addition to the powers otherwise authorized by law and in addition to the foregoing general corporate powers, the Authority shall also have the following additional specific powers to be exercised in furtherance of the purposes of this Act.

(a) The Authority shall have power (i) to accept grants, loans or appropriations from the federal government or the State, or any agency or instrumentality thereof, to be used for the operating expenses of the Authority, or for any purposes of the Authority, including the making of direct loans of such funds with respect to projects, and (ii) to enter into any agreement with the federal government or the State, or any agency or instrumentality thereof, in relationship to such grants, loans or appropriations.

(b) The Authority shall have power to procure and enter into contracts for any type of insurance and indemnity agreements covering loss or damage to property from any cause, including loss of use and occupancy, or covering any other insurable risk.

(c) The Authority shall have the continuing power to issue bonds for its corporate purposes. Bonds may be issued by the Authority in one or more series and may provide for the payment of any interest deemed necessary on such bonds, of the costs of issuance of such bonds, of any premium on any insurance, or of the cost of any guarantees, letters of credit or other similar documents, may provide for the funding of the reserves deemed necessary in connection with such bonds, and may provide for the refunding or advance refunding of any bonds or for accounts deemed necessary in connection with any purpose of the Authority. The bonds may bear interest payable at any time or times and at any rate or rates, notwithstanding any other provision of law to the contrary, and such rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor by the Authority, or may bear no interest or may bear interest payable at maturity or upon redemption prior to maturity, may bear such date or dates, may be payable at such time or times and at such place or places, may mature at any time or times not later than 40 years from the date of issuance, may be sold at public or private sale at such time or times and at such price or prices, may be secured by such pledges, reserves, guarantees, letters of credit, insurance contracts or other similar credit support or liquidity instruments, may be executed in such manner, may be subject to redemption prior to maturity, may provide for the registration of the bonds, and may be subject to such other terms and conditions all as may be provided by the resolution or indenture authorizing the issuance of such bonds. The holder or holders of any bonds issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of such bonds and to compel such person or the Authority and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of any such bonds by the provision of the resolution authorizing their issuance, and to enjoin such person or the Authority and any of its agents or employees from taking any action in conflict with any such contract or covenant. Notwithstanding the form and tenor of any such bonds and in the absence of any express recital on the face thereof that it is non-negotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued as provided by the resolution. The bonds shall be sold by the Authority in such manner as it shall determine. The bonds may be secured as provided in the authorizing resolution by the receipts, revenues, income and other available funds of the Authority and by any amounts derived by the Authority from the loan agreement or lease agreement with respect to the project or projects; and bonds may be issued as general obligations of the Authority payable from such revenues, funds and obligations of the Authority as the bond resolution shall provide, or may be issued as limited obligations with a claim for payment solely from such revenues, funds and obligations as the bond resolution shall provide. The Authority may grant a specific pledge or assignment of and lien on or security interest in such rights, revenues, income, or amounts and may grant a specific pledge or assignment of and lien on or security interest in any reserves, funds or accounts established in the resolution authorizing the issuance of bonds. Any such pledge, assignment, lien or security interest for the benefit of the holders of the Authority's bonds shall be valid and binding from the time the bonds are issued without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims against the Authority or any other person irrespective of whether the other parties have notice of the pledge, assignment, lien or security interest. As evidence of such pledge, assignment, lien and security interest, the Authority may execute and deliver a mortgage, trust agreement, indenture or security agreement or an assignment thereof. A remedy for any breach or default of the terms of any such agreement by the Authority may be by mandamus proceedings in any court of competent jurisdiction to compel the performance and compliance therewith, but the agreement may prescribe by whom or on whose behalf such action may be instituted. It is expressly understood that the Authority may, but need not, acquire title to any project with respect to which it exercises its authority.

(d) With respect to the powers granted by this Act, the Authority may adopt rules and regulations

prescribing the procedures by which persons may apply for assistance under this Act. Nothing herein shall be deemed to preclude the Authority, prior to the filing of any formal application, from conducting preliminary discussions and investigations with respect to the subject matter of any prospective application.

(e) The Authority shall have power to acquire by purchase, lease, gift or otherwise any property or rights therein from any person useful for its purposes, whether improved for the purposes of any prospective project, or unimproved. The Authority may also accept any donation of funds for its purposes from any such source. The Authority shall have no independent power of condemnation but may acquire any property or rights therein obtained upon condemnation by any other authority, governmental entity or unit of local government with such power.

(f) The Authority shall have power to develop, construct and improve either under its own direction, or through collaboration with any approved applicant, or to acquire through purchase or otherwise, any project, using for such purpose the proceeds derived from the sale of its bonds or from governmental loans or grants, and to hold title in the name of the Authority to such projects.

(g) The Authority shall have power to lease pursuant to a lease agreement any project so developed and constructed or acquired to the approved tenant on such terms and conditions as may be appropriate to further the purposes of this Act and to maintain the credit of the Authority. Any such lease may provide for either the Authority or the approved tenant to assume initially, in whole or in part, the costs of maintenance, repair and improvements during the leasehold period. In no case, however, shall the total rentals from any project during any initial leasehold period or the total loan repayments to be made pursuant to any loan agreement, be less than an amount necessary to return over such lease or loan period (1) all costs incurred in connection with the development, construction, acquisition or improvement of the project and for repair, maintenance and improvements thereto during the period of the lease or loan; provided, however, that the rentals or loan repayments need not include costs met through the use of funds other than those obtained by the Authority through the issuance of its bonds or governmental loans; (2) a reasonable percentage additive to be agreed upon by the Authority and the borrower or tenant to cover a properly allocable portion of the Authority's general expenses, including, but not limited to, administrative expenses, salaries and general insurance, and (3) an amount sufficient to pay when due all principal of, interest and premium, if any on, any bonds issued by the Authority with respect to the project. The portion of total rentals payable under clause (3) of this subsection (g) shall be deposited in such special accounts, including all sinking funds, acquisition or construction funds, debt service and other funds as provided by any resolution, mortgage or trust agreement of the Authority pursuant to which any bond is issued.

(h) The Authority has the power, upon the termination of any leasehold period of any project, to sell or lease for a further term or terms such project on such terms and conditions as the Authority shall deem reasonable and consistent with the purposes of the Act. The net proceeds from all such sales and the revenues or income from such leases shall be used to satisfy any indebtedness of the Authority with respect to such project and any balance may be used to pay any expenses of the Authority or be used for the further development, construction, acquisition or improvement of projects. In the event any project is vacated by a tenant prior to the termination of the initial leasehold period, the Authority shall sell or lease the facilities of the project on the most advantageous terms available. The net proceeds of any such disposition shall be treated in the same manner as the proceeds from sales or the revenues or income from leases subsequent to the termination of any initial leasehold period.

(i) The Authority shall have the power to make loans to persons to finance a project, to enter into loan agreements with respect thereto, and to accept guarantees from persons of its loans or the resultant evidences of obligations of the Authority.

(j) The Authority may fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including, without limitation, any application fees, commitment fees, program fees, financing charges or publication fees from any person in connection with its activities under this Act.

(k) In addition to the funds established as provided herein, the Authority shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this Act and to deposit its available monies into the funds and accounts.

(l) At the request of the governing body of any unit of local government, the Authority is authorized to market such local government's revenue bond offerings by preparing bond issues for sale, advertising for sealed bids, receiving bids at its offices, making the award to the bidder that offers the most favorable terms or arranging for negotiated placements or underwritings of such securities. The Authority may, at its discretion, offer for concurrent sale the revenue bonds of several local governments. Sales by the Authority of revenue bonds under this Section shall in no way imply State guarantee of such debt issue. The Authority may require such financial information from participating local governments as it deems

necessary in order to carry out the purposes of this subsection (1).

(m) The Authority may make grants to any county to which Division 5-37 of the Counties Code is applicable to assist in the financing of capital development, construction and renovation of new or existing facilities for hospitals and health care facilities under that Act. Such grants may only be made from funds appropriated for such purposes from the Build Illinois Bond Fund.

(n) The Authority may establish an urban development action grant program for the purpose of assisting municipalities in Illinois which are experiencing severe economic distress to help stimulate economic development activities needed to aid in economic recovery. The Authority shall determine the types of activities and projects for which the urban development action grants may be used, provided that such projects and activities are broadly defined to include all reasonable projects and activities the primary objectives of which are the development of viable urban communities, including decent housing and a suitable living environment, and expansion of economic opportunity, principally for persons of low and moderate incomes. The Authority shall enter into grant agreements from monies appropriated for such purposes from the Build Illinois Bond Fund. The Authority shall monitor the use of the grants, and shall provide for audits of the funds as well as recovery by the Authority of any funds determined to have been spent in violation of this subsection (n) or any rule or regulation promulgated hereunder. The Authority shall provide technical assistance with regard to the effective use of the urban development action grants. The Authority shall file an annual report to the General Assembly concerning the progress of the grant program.

(o) The Authority may establish a Housing Partnership Program whereby the Authority provides zero-interest loans to municipalities for the purpose of assisting in the financing of projects for the rehabilitation of affordable multi-family housing for low and moderate income residents. The Authority may provide such loans only upon a municipality's providing evidence that it has obtained private funding for the rehabilitation project. The Authority shall provide 3 State dollars for every 7 dollars obtained by the municipality from sources other than the State of Illinois. The loans shall be made from monies appropriated for such purpose from the Build Illinois Bond Fund. The total amount of loans available under the Housing Partnership Program shall not exceed \$30,000,000. State loan monies under this subsection shall be used only for the acquisition and rehabilitation of existing buildings containing 4 or more dwelling units. The terms of any loan made by the municipality under this subsection shall require repayment of the loan to the municipality upon any sale or other transfer of the project.

(p) The Authority may award grants to universities and research institutions, research consortiums and other not-for-profit entities for the purposes of: remodeling or otherwise physically altering existing laboratory or research facilities, expansion or physical additions to existing laboratory or research facilities, construction of new laboratory or research facilities or acquisition of modern equipment to support laboratory or research operations provided that such grants (i) be used solely in support of project and equipment acquisitions which enhance technology transfer, and (ii) not constitute more than 60 percent of the total project or acquisition cost.

(q) Grants may be awarded by the Authority to units of local government for the purpose of developing the appropriate infrastructure or defraying other costs to the local government in support of laboratory or research facilities provided that such grants may not exceed 40% of the cost to the unit of local government.

(r) The Authority may establish a Direct Loan Program to make loans to individuals, partnerships or corporations for the purpose of an industrial project, as defined in Section 801-10 of this Act. For the purposes of such program and not by way of limitation on any other program of the Authority, the Authority shall have the power to issue bonds, notes, or other evidences of indebtedness including commercial paper for purposes of providing a fund of capital from which it may make such loans. The Authority shall have the power to use any appropriations from the State made especially for the Authority's Direct Loan Program for additional capital to make such loans or for the purposes of reserve funds or pledged funds which secure the Authority's obligations of repayment of any bond, note or other form of indebtedness established for the purpose of providing capital for which it intends to make such loans under the Direct Loan Program. For the purpose of obtaining such capital, the Authority may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. Loans made under the Direct Loan Program may be in an amount not to exceed \$300,000 and shall be made for a portion of an industrial project which does not exceed 50% of the total project. No loan may be made by the Authority unless approved by the affirmative vote of at least 8 members of the board. The Authority shall establish procedures and publish rules which shall provide for the submission, review, and analysis of each direct loan application and which shall preserve the ability of each board member to reach an individual business judgment regarding the propriety of making each direct loan. The collective discretion of the board to approve or

disapprove each loan shall be unencumbered. The Authority may establish and collect such fees and charges, determine and enforce such terms and conditions, and charge such interest rates as it determines to be necessary and appropriate to the successful administration of the Direct Loan Program. The Authority may require such interests in collateral and such guarantees as it determines are necessary to project the Authority's interest in the repayment of the principal and interest of each loan made under the Direct Loan Program.

(s) The Authority may guarantee private loans to third parties up to a specified dollar amount in order to promote economic development in this State.

(t) The Authority may adopt rules and regulations as may be necessary or advisable to implement the powers conferred by this Act.

(u) The Authority shall have the power to issue bonds, notes or other evidences of indebtedness, which may be used to make loans to units of local government which are authorized to enter into loan agreements and other documents and to issue bonds, notes and other evidences of indebtedness for the purpose of financing the protection of storm sewer outfalls, the construction of adequate storm sewer outfalls, and the provision for flood protection of sanitary sewage treatment plans, in counties that have established a stormwater management planning committee in accordance with Section 5-1062 of the Counties Code. Any such loan shall be made by the Authority pursuant to the provisions of Section 820-5 to 820-60 of this Act. The unit of local government shall pay back to the Authority the principal amount of the loan, plus annual interest as determined by the Authority. The Authority shall have the power, subject to appropriations by the General Assembly, to subsidize or buy down a portion of the interest on such loans, up to 4% per annum.

(v) The Authority may accept security interests as provided in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

(w) Moral Obligation. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on its bonds during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal of and interest on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply only to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact shall also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal or interest on those bonds, the Chairperson of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section. In addition to any other bonds authorized to be issued under Sections 825-60, 825-65(e), 830-25 and 845-5, the principal amount of Authority bonds outstanding issued under this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS 360/2-6(c), which have been assumed by the Authority, shall not exceed \$150,000,000. This subsection (w) shall in no way be applied to any bonds issued by the Authority on behalf of the Illinois Power Agency under Section 825-90 of this Act.

(x) The Authority may enter into agreements or contracts with any person necessary or appropriate to place the payment obligations of the Authority under any of its bonds in whole or in part on any interest rate basis, cash flow basis, or other basis desired by the Authority, including without limitation agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", and "futures", or agreements or contracts to exchange cash flows or a series of payments, or agreements or contracts, including without limitation agreements or contracts commonly known as "options", "puts", or "calls", to hedge payment, rate spread, or similar exposure; provided that any such agreement or contract shall not constitute an obligation for borrowed money and shall not be taken into account under Section 845-5 of this Act or any other debt limit of the Authority or the State of Illinois.

(y) The Authority shall publish summaries of projects and actions approved by the members of the Authority on its website. These summaries shall include, but not be limited to, information regarding the:

(1) project;

(2) Board's action or actions;

(3) purpose of the project;

(4) Authority's program and contribution;

- (5) volume cap;
- (6) jobs retained;
- (7) projected new jobs;
- (8) construction jobs created;
- (9) estimated sources and uses of funds;
- (10) financing summary;
- (11) project summary;
- (12) business summary;
- (13) ownership or economic disclosure statement;
- (14) professional and financial information;
- (15) service area; and
- (16) legislative district.

The disclosure of information pursuant to this subsection shall comply with the Freedom of Information Act.

(Source: P.A. 94-91, eff. 7-1-05; 95-470, eff. 8-27-07; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 95-30. The Fiscal Control and Internal Auditing Act is amended by changing Sections 1003, 2001, and 2002 as follows:

(30 ILCS 10/1003) (from Ch. 15, par. 1003)

Sec. 1003. Definitions.

(a) "Designated State agencies" include the offices of the Secretary of State, the State Comptroller, the State Treasurer, and the Attorney General, the State Board of Education, the State colleges and universities, the Illinois Toll Highway Authority, the Illinois Housing Development Authority, the public retirement systems, the Illinois Student Assistance Commission, the Illinois Finance Authority, the Environmental Protection Agency, the Capital Development Board, the Department of Military Affairs, the State Fire Marshal, and each Department of State government created in Article 5, Section 5-15 of the Civil Administrative Code of Illinois and other State agencies designated by the Governor under Section 2001.

(b) "State agency" means that term as defined in the Illinois State Auditing Act, as now or hereafter amended, except the judicial branch which shall be covered by subsection (c) of Section 2001 and Section 3004 of this Act.

(c) "Chief executive officer" includes, respectively, the Secretary of State, the State Comptroller, the State Treasurer, the Attorney General, the State Superintendent of Education, such chief executive officers as are designated by the governing board of each State college and university, the executive director of the Illinois Toll Highway Authority, and the executive director of the Illinois Housing Development Authority, as well as the chief executive officer of each designated other State agency.

(Source: P.A. 86-936.)

(30 ILCS 10/2001) (from Ch. 15, par. 2001)

Sec. 2001. Program of internal auditing.

(a) Each designated State agency as defined in Section 1003(a) shall maintain ~~establish~~ a full-time program of internal auditing. In the event that a designated State agency is merged, abolished, reorganized, or renamed, the successor State agency shall also be a designated State agency. The Governor shall designate State agencies under this Act not later than April 1 of each odd numbered year. The designations shall be filed with the Index Division of the Office of the Secretary of State as a public record. The Legislative Audit Commission may make formal recommendations to the Governor that the Governor designate other State agencies under this Act.

(a-5) Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, each chief internal auditor transferred under Executive Order 2003-10 to the Department of Central Management Services shall be transferred to the auditor's designated State agency, and if an auditor does not have a designated State agency or has more than one designated State agency, then the chief executive officer of a State agency shall appoint such person as the chief internal auditor of a State agency. A chief internal auditor transferred under this amendatory Act of the 96th General Assembly shall be appointed to a 5-year term beginning on the effective date of this amendatory Act of the 96th General Assembly.

The rights of employees and of the State and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension retirement or annuity plan shall not be affected by this amendatory Act of the 96th General Assembly.

All books, records, papers, documents, property (real and personal), unexpended appropriations, and pending business pertaining to the functions transferred by this amendatory Act of the 96th General

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Assembly shall be delivered to the respective State agency pursuant to the direction of the chief executive officer of that State agency.

(b) The chief executive officer of a State agency is not relieved from the responsibility for maintaining an effective internal control system merely because that State agency is not designated and required to have a full-time program of internal auditing under this Act. Agencies which do not have full-time internal audit programs may have internal audits performed by the Department of Central Management Services.

(c) The Supreme Court will establish by its rulemaking authority or by administrative order a full-time program of internal auditing of State-funded activities of the judicial branch, which is consistent with the intent of this Article.

(Source: P.A. 86-936.)

(30 ILCS 10/2002) (from Ch. 15, par. 2002)

Sec. 2002. Qualifications of chief internal auditor.

(a) The chief executive officer of each designated State agency shall appoint a chief internal auditor with a bachelor's degree, who is either:

- (1) a certified internal auditor by examination or a certified public accountant and who has at least 4 years of progressively responsible professional auditing experience; or
- (2) an auditor with at least 5 years of progressively responsible professional auditing experience.

(b) The chief internal auditor shall report directly to the chief executive officer and shall have direct communications with the chief executive officer and the governing board, if applicable, in the exercise of auditing activities. All chief internal auditors and all full-time members of an internal audit staff shall be free of all operational duties.

(c) The chief internal auditor shall serve a 5-year term beginning on the date of the appointment. A chief internal auditor may be removed only for cause after a hearing before the Executive Ethics Commission concerning the removal. Any chief internal auditor who is appointed to replace a removed chief internal auditor may serve only until the expiration of the term of the removed chief internal auditor. The annual salary of a chief internal auditor cannot be diminished during the term of the chief internal auditor.

(Source: P.A. 86-936.)

Section 95-35. The Illinois Procurement Code is amended by changing Sections 1-15.15, 1-15.30, 1-15.70, 1-15.80, 5-5, 5-25, 10-5, 10-10, 10-15, 15-25, 15-30, 20-10, 20-25, 20-30, 20-50, 20-60, 20-65, 20-70, 20-75, 20-80, 20-155, 20-160, 40-25, 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, 50-14.5, 50-20, 50-30, 50-35, 50-37, 50-60, 50-65, 50-70, and 53-10 and by adding Sections 1-15.107, 10-20, 10-25, 20-43, 20-120, 50-2, 50-21, 50-38, and 50-39 as follows:

(30 ILCS 500/1-15.15)

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means any of the 4 persons appointed by a majority of the members of the Executive Ethics Commission for:

(1) ~~for~~ procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, ~~the executive director of the Capital Development Board.~~

(2) ~~for~~ procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, ~~the Secretary of Transportation.~~

(3) ~~for~~ all procurements made by a public institution of higher education, ~~a representative designated by the Governor.~~

(4) ~~(Blank).~~ ~~for all procurements made by the Illinois Power Agency, the Director of the Illinois Power Agency.~~

(5) ~~for all other procurements, the Director of the Department of Central Management Services.~~

(Source: P.A. 95-481, eff. 8-28-07.)

(30 ILCS 500/1-15.30)

Sec. 1-15.30. Contract. "Contract" means all types of State agreements, including change orders and renewals, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property, whether the State is lessor or lessee, or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to

contracts, and change orders.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.70)

Sec. 1-15.70. Purchasing agency. "Purchasing agency" means a State agency that enters into a contract at the direction of a State purchasing officer authorized by a chief procurement officer or a chief procurement officer. ~~"Purchasing agency" means a State agency that is authorized by this Code, by its implementing rules, or by authorized delegation of a chief procurement officer to enter into contracts.~~

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.80)

Sec. 1-15.80. Responsible bidder or offeror. "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or proposal is submitted for a State contract.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.107 new)

Sec. 1-15.107. Subcontract. "Subcontract" means a contract between a person and a person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor or another subcontractor some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

(30 ILCS 500/5-5)

Sec. 5-5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board, an agency of the State of Illinois.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a majority of its members who have been appointed and are serving.

(b-5) Reviews, studies, and hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of this Code. Each chief procurement officer, ~~associate procurement officer~~, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3-year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2-year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may employ a reasonable and necessary number of staff persons.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public inspection and copying.

(h) Procurement recommendations. Upon a three-fifths vote of its members, the Board may review a

proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of this Code or the existence of a conflict of interest as described in subsections (b) and (d) of Section 50-35. A chief procurement officer or State purchasing officer shall notify the Board if a conflict of interest is identified, discovered, or reasonably suspected to exist. Any person or entity may notify the Board of a conflict of interest. A recommendation of the Board shall be delivered to the appropriate chief procurement officer and Executive Ethics Commission within 5 days and must be published in the next volume of the Procurement Bulletin.

(i) The Board shall refer any alleged violations of this Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.

(Source: P.A. 93-839, eff. 7-30-04.)

(30 ILCS 500/5-25)

Sec. 5-25. Rulemaking authority; agency policy; agency response.

(a) Rulemaking. A chief procurement officer ~~State agency~~ authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. That rulemaking on specific procurement topics is mentioned in specific Sections of this Code shall not be construed as prohibiting or limiting rulemaking on other procurement topics.

All rules shall be promulgated in accordance with the Illinois Administrative Procedure Act. Contractual provisions, specifications, and procurement descriptions are not rules and are not subject to the Illinois Administrative Procedure Act. All rules other than those promulgated by the Board shall be presented in writing to the Board and the Executive Procurement Officer for its review and comment. The Board and the Executive Procurement Officer shall express their its opinions and recommendations in writing. ~~The Both the proposed rules and Board~~ recommendations shall be made available for public review. The rules shall also be approved by ~~the applicable chief procurement officer and~~ the Joint Committee on Administrative Rules.

(b) Policy. Each chief procurement officer, ~~associate procurement officer, and State agency~~ shall promptly notify the Procurement Policy Board in writing of any proposed new procurement rule or policy or any proposed change in an existing procurement rule or policy.

(c) Response. Each State agency must respond promptly in writing to all inquiries and comments of the Procurement Policy Board or Executive Procurement Officer.

(Source: P.A. 93-839, eff. 7-30-04.)

(30 ILCS 500/10-5)

Sec. 10-5. Exercise of procurement authority. The chief procurement officer shall exercise all procurement authority created by this Code. The State purchasing officers appointed under this Code shall exercise procurement authority at the direction of their respective chief procurement officer. Decisions of a State purchasing officer are subject to review by the respective chief procurement officer. The State purchasing officers shall be appointed by their respective chief procurement officer and approved by the director of each State agency. The State purchasing officer of each State agency shall exercise the procurement authority created by this Code except as otherwise provided in this Code.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-10)

Sec. 10-10. Independent State purchasing officers ~~General appointments~~.

(a) The chief procurement officer shall appoint ~~and the director of each State agency shall approve~~ a State purchasing officer for each agency that the chief procurement officer is responsible for under Section 1-15.15. A State purchasing officer shall be located in the State agency that the officer serves but shall report to his or her respective chief procurement officer. The State purchasing officer shall have direct communication with agency staff assigned to assist with any procurement process. At the direction of his or her respective chief procurement officer, a State purchasing officer shall enter into contracts for a purchasing agency. All actions of a State purchasing officer are subject to review by a chief procurement officer in accordance with procedures and policies established by the chief procurement officer.

(b) In addition to any other requirement or qualification required by State law, within 18 months after appointment, a State purchasing officer must be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council. A State purchasing officer shall serve a term of 5-years beginning on the date of the officer's appointment. A State purchasing officer shall have an office located in the State agency that the officer serves but shall report to the chief procurement officer. A State purchasing officer may be removed by a chief procurement officer for cause after a hearing by the Executive Ethics Commission. The chief procurement officer or executive officer of the State agency housing the State purchasing officer may institute a complaint against the State purchasing officer by filing such a complaint with the Commission

and the Commission shall have a public hearing based on the complaint. The State purchasing officer, chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a non-binding recommendation on whether the State purchasing officer shall be removed to exercise within his or her jurisdiction the procurement authority created by this Code. The salary of a State purchasing officer shall be established by the chief procurement officer and may not be diminished during the officer's term. In the absence of an appointed and approved State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code and may appoint a temporary acting State purchasing officer.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-15)

Sec. 10-15. Procurement compliance monitors ~~Associate Procurement Officers.~~

(a) The Executive Ethics Commission shall appoint procurement compliance monitors to oversee and review the procurement processes. Each procurement compliance monitor shall serve a term of 5 years beginning on the date of the officer's appointment. Each procurement compliance monitor shall have an office located in the State agency that the monitor serves but shall report to the appropriate chief procurement officer. The compliance monitor shall have direct communications with the executive officer of a State agency in exercising duties. A procurement compliance monitor may be removed only for cause after a hearing by the Executive Ethics Commission. The appropriate chief procurement officer or executive officer of the State agency housing the procurement compliance monitor may institute a complaint against the procurement compliance monitor with the Commission and the Commission shall hold a public hearing based on the complaint. The procurement compliance monitor, State purchasing officer, appropriate chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall determine whether the procurement compliance monitor shall be removed. The salary of a procurement compliance monitor shall be established by the Executive Ethics Commission and may not be diminished during the officer's term.

(b) The procurement compliance monitor may: (i) review each contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed; (ii) attend any procurement meetings; (iii) access any records or files related to procurement; (iv) issue reports to the chief procurement officer on procurement issues that present issues or that have not been corrected after consultation with appropriate State officials; (v) ensure the State agency is maintaining appropriate records; and (vi) ensure transparency of the procurement process.

(c) If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue. If the State agency does not correct the issue, the monitor shall report the problem to the chief procurement officer and Inspector General. The Governor, with the consent of the statutory chief procurement officers, may for proper and effective administration of this Code appoint associate procurement officers. All associate procurement officers shall be submitted to the Senate for advice and consent. For the purposes of this Code, duly appointed associate procurement officers shall function in all respects as chief procurement officers. Associate procurement officers shall serve at the pleasure of the Governor.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-20 new)

Sec. 10-20. Independent chief procurement officers.

(a) Appointment. Within 60 days after the effective date of this amendatory Act of the 96th General Assembly, the Executive Ethics Commission, with the advice and consent of the Senate shall appoint 4 chief procurement officers, one for each of the following categories:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board;

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure;

(3) for all procurements made by a public institution of higher education; and

(4) for all other procurement needs of State agencies.

A chief procurement officer shall be responsible to the Executive Ethics Commission but must be located within the agency that the officer provides with procurement services. The chief procurement officer for higher education shall have an office located within the Board of Higher Education, unless

otherwise designated by the Executive Ethics Commission. The chief procurement officer for all other procurement needs of the State shall have an office located within the Department of Central Management Services, unless otherwise designated by the Executive Ethics Commission.

(b) Terms and independence. Each chief procurement officer appointed under this Section shall serve for a term of 5 years beginning on the date of the officer's appointment. The chief procurement officer may be removed for cause after a hearing by the Executive Ethics Commission. The Governor or the director of a State agency directly responsible to the Governor may institute a complaint against the officer by filing such complaint with the Commission. The Commission shall have a hearing based on the complaint. The officer and the complainant shall receive reasonable notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a finding on the complaint and may take disciplinary action, including but not limited to removal of the officer.

The salary of a chief procurement officer shall be established by the Executive Ethics Commission and may not be diminished during the officer's term. The salary may not exceed the salary of the director of a State agency for which the officer serves as chief procurement officer.

(c) Qualifications. In addition to any other requirement or qualification required by State law, each chief procurement officer must within 12 months of employment be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council, and must reside in Illinois.

(d) Fiduciary duty. Each chief procurement officer owes a fiduciary duty to the State.

(30 ILCS 500/10-25 new)

Sec. 10-25. Executive Procurement Officer. The Governor shall appoint an Executive Procurement Officer to conduct a review of State procurement practices. The Executive Procurement Officer shall provide advice to the chief procurement officers in developing procurement practices that represent the best interest of the State, including but not limited to providing advice and assistance with advertising opportunities to do business with Illinois, bid protests and complaints, development of forms, and rules promulgated in accordance with the Illinois Administrative Procedure Act. The Officer may also provide advice to the Executive Ethics Commission on the development of procurement related policies. The Executive Procurement Officer is an advisory position and does not have authority to supervise or direct chief procurement officers, State procurement officers, procurement compliance monitors, or their respective staffs. The Executive Procurement Officer's compensation shall be established by the Governor and paid from appropriations made to the Office of the Governor.

This Section is repealed the second Monday of January 2011.

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and Illinois residents discharged from any Illinois adult correctional center.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be published in the next available subsequent Bulletin, and the applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a), ~~as well as~~ the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, the information required in subsection (g) of Section 20-10 if applicable, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin no later than 10 days after the contract is awarded ~~prior to execution of the contract.~~

(c) Emergency purchase disclosure. Any chief procurement officer ~~or~~ <sup>7</sup> State purchasing officer, ~~or designee~~ exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin no later than 3 ~~within 3~~ business days after the ~~execution of the contract is awarded.~~

Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 5 business days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 business days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the online electronic Bulletin within 10 days of the determination to renew the contract and the next available subsequent Bulletin. The notice shall include at least all of the information required in subsection (b).

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(Source: P.A. 94-1067, eff. 8-1-06; 95-536, eff. 1-1-08.)

(30 ILCS 500/15-30)

Sec. 15-30. Electronic Bulletin clearinghouse.

(a) The Procurement Policy Board shall maintain on its official website a searchable database containing all information required to be included in the Illinois Procurement Bulletin under subsections (b), ~~and (c)~~, (c-10), and (c-15) of Section 15-25 and all information required to be disclosed under Section 50-41. The posting of procurement information on the website is subject to the same posting requirements as the online electronic Bulletin.

(b) For the purposes of this Section, searchable means searchable and sortable by successful responsible bidder or offeror or, for emergency purchases, business or person contracted with; the contract price or total cost; the service or good; the purchasing State agency; and the date first offered or announced.

~~(c) The Department of Central Management Services, the Capital Development Board, the Department of Transportation, and the higher education~~ chief procurement officer shall provide the Procurement Policy Board the information and resources necessary, and in a manner, to effectuate the purpose of this Section.

(Source: P.A. 95-536, eff. 1-1-08.)

(30 ILCS 500/20-10)

Sec. 20-10. Competitive sealed bidding.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in

accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

- (1) a description of the agency's needs;
- (2) a determination that the anticipated cost will be fair and reasonable;
- (3) a listing of all responsible and responsive bidders; and
- (4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07.)

(30 ILCS 500/20-25)

Sec. 20-25. Sole source procurements.

(a) In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. A State contract may not be awarded as a sole source procurement unless approved by the chief procurement officer following a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. The Procurement Policy Board and the public may

present testimony.

(b) This Section may not be used as a basis for amending a contract for professional or artistic services if the amendment would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed 2 months.

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

~~At least 2 weeks before entering into a sole source contract, the purchasing agency shall publish in the Illinois Procurement Bulletin a notice of intent to do so along with a description of the item to be procured and the intended sole source contractor.~~

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-30)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services ~~that affect health, safety, or collection of substantial State revenues,~~ or to ensure the integrity of State records; ~~provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts.~~ Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Affidavits. ~~A chief procurement officer purchasing agency~~ making a procurement under this Section shall file affidavits with the ~~Procurement Policy Board chief procurement officer~~ and the Auditor General within 10 days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

[May 21, 2009]

(30 ILCS 500/20-43 new)

Sec. 20-43. Bidder or offeror authorized to do business in Illinois. In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Code only if the person is a legal entity authorized to do business in Illinois prior to submitting the bid, offer, or proposal.

(30 ILCS 500/20-50)

Sec. 20-50. Specifications. Specifications shall be prepared in accordance with consistent standards that are promulgated by the chief procurement officer and reviewed by the Board and the Joint Committee on Administrative Rules. Those standards shall include a prohibition against the use of brand-name only products, except for products intended for retail sale or as specified by rule, ~~and shall include a restriction on the use of specifications drafted by a potential bidder.~~ All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

A solicitation or specification for a contract or a contract, including a contract but not limited to of a college, university, or institution under the jurisdiction of a governing board listed in Section 1-15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition for awarding or completing the contract. The contract, solicitation, or specification also may not include a requirement that an individual or individuals employed by such a college, university, or institution receive a consulting contract for professional services.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-627, eff. 8-19-99.)

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive of proposed contract renewals. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(Source: P.A. 95-344, eff. 8-21-07.)

(30 ILCS 500/20-65)

Sec. 20-65. Right to audit records.

(a) Maintenance of books and records. Every contract and subcontract shall require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records shall be maintained by the contractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. However, the 3-year period shall be extended for the duration of any audit in progress at the time of that period's expiration.

(b) Audit. Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General, chief procurement officer, internal auditor, and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

(c) Failure to maintain books and records. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-70)

Sec. 20-70. Finality of determinations. Except as otherwise provided in this Code, determinations ~~Determinations~~ made by a chief procurement officer, State purchasing officer, or a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-75)

Sec. 20-75. Disputes and protests. The chief procurement officers shall by rule establish procedures to be followed by ~~purchasing agencies~~ in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-80)

Sec. 20-80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) ~~Timely execution of Professional and artistic services contracts.~~ No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract ~~for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of service at the same location during any fiscal year~~ unless the contract is reduced to writing before the services are performed and filed with the Comptroller. ~~Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A chief procurement officer may request an exception to this subsection by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection must be approved by the Comptroller and Treasurer. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:~~

~~(1) a written contract covering the services, and~~

~~(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.~~

A copy of this affidavit shall be filed with the Auditor General. ~~This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as required by this Code. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.~~

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-904, eff. 7-6-00.)

(30 ILCS 500/20-120 new)

Sec. 20-120. Subcontractors.

(a) Any contract granted under this Code shall state whether the services of a subcontractor will or may be used. To the extent that the information is known, the contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. The contractor shall provide the chief procurement officer or State purchasing officer a copy of any subcontract so identified within 20 days after the execution of the State contract or after execution of the subcontract, whichever is later.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer, State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced

subcontractor will receive. The contractor shall provide to the responsible chief procurement officer a copy of the subcontract within 20 days after the execution of the subcontract.

(c) In addition to any other requirements of this Code, a subcontract subject to this Section must include all of the subcontractor's certifications required by Article 50 of the Code.

(d) This Section applies to procurements executed on or after the effective date of this amendatory Act of the 96th General Assembly.

(30 ILCS 500/20-155)

Sec. 20-155. Solicitation and contract documents.

(a) After award of a contract and subject to provisions of the Freedom of Information Act, the procuring agency shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to that particular contract.

(b) A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement file shall contain a written determination, signed by the chief procurement officer or State purchasing officer, setting forth the reasoning for the contract award decision. The procurement file shall be open to public inspection within 7 business days following award of the contract.

(Source: P.A. 94-978, eff. 6-30-06.)

(30 ILCS 500/20-160)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid submitted to and every contract executed by the State on or after the effective date of this amendatory Act of the 95th General Assembly shall contain (1) a certification by the bidder or contractor that either (i) the bidder or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's or contractor's failure to comply with this Section.

(c) Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, each business entity (i) whose aggregate bids and proposals on State contracts annually total more than \$50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than \$50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection shall submit a copy of the certificate of registration to the applicable chief procurement officer within 90 days after the effective date of this amendatory Act of the 95th General Assembly. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier within 2 business days following such change. A business entity required to register under this subsection due to item (iii) has a continuing duty to report any changes in information to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day ensure that the registration is accurate in accordance with subsection (f).

(d) Any business entity, not required under subsection (c) to register within 30 days after the effective date of this amendatory Act of the 95th General Assembly, whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier 2 business days following such change.

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. Any change in information shall be reported to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day. If within 10 days following such change; however, if a business entity required to register under this subsection has a pending bid or proposal, any change in information shall be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier 2 business days.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) A copy of a certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register under this Section. A chief procurement officer shall not accept a bid or proposal unless the certificate is submitted to the agency with the bid or proposal.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, proposal, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract. (Source: P.A. 95-971, eff. 1-1-09.)

(30 ILCS 500/40-25)

Sec. 40-25. Length of leases.

(a) Maximum term. Leases shall be for a term not to exceed 10 years inclusive of proposed contract renewals and shall include a termination option in favor of the State after 5 years.

(b) Renewal. Leases may include a renewal option. An option to renew may be exercised only when a State purchasing officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.

(c) Subject to appropriation. All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

(d) Holdover. Beginning January 1, 2010, no lease may continue on a month-to-month or other holdover basis for a total of more than 6 months. Beginning July 1, 2010, the Comptroller shall withhold payment of leases beyond this holdover period.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/50-2 new)

Sec. 50-2. Continuing disclosure; false certification. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible chief procurement officer whether it continues to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Whistleblower Reward and Protection Act for submission of a false claim.

(30 ILCS 500/50-5)

Sec. 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

- (1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or
- (2) has made an admission of guilt of that conduct that is a matter of record but has

not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any certifications required by this Section are false. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-10)

Sec. 50-10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications required by this Section are false.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract or subcontract under this Code with the State of Illinois or any State agency if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, ~~or contractor, or subcontractor,~~ respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract ~~or subcontract~~ under this Section and ~~that the contractor~~ acknowledges that the chief procurement officer ~~contracting State agency~~ shall declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) are is false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

(e) No person or business shall bid or enter into a contract under this Code if the person or business:

(1) assisted the State of Illinois or a State agency in determining whether there is a need for a contract except as part of a response to a publicly issued request for information; or

(2) assisted the State of Illinois or a State agency by reviewing, drafting, or preparing a request for proposals or request for information or provided similar assistance.

For purposes of this subsection (e), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business.

(Source: P.A. 93-600, eff. 1-1-04.)

(30 ILCS 500/50-11)

Sec. 50-11. Debt delinquency.

(a) No person shall submit a bid for or enter into a contract ~~or subcontract with a State agency~~ under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Board. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted to and contract executed by the State ~~and every subcontract subject to Section 20-120 of this Code~~ shall contain a certification by the bidder, ~~or contractor, or subcontractor, respectively,~~ that the contractor ~~or the subcontractor~~ and its affiliate is not barred from being awarded a contract ~~or subcontract~~ under this Section and ~~that the contractor~~ acknowledges that the chief procurement officer contracting State agency may declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) ~~are~~ is false.

(Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

(30 ILCS 500/50-12)

Sec. 50-12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency ~~or enter into a subcontract~~ under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted and contract executed by the State ~~and every subcontract subject to Section 20-120 of this Code~~ shall contain a certification by the bidder, ~~or contractor, or subcontractor, respectively,~~ that the bidder, ~~or contractor, or subcontractor~~ is not barred from bidding for or entering into a contract under subsection (a) of this Section and ~~that the bidder or contractor~~ acknowledges that the chief procurement officer contracting State agency may declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) ~~are~~ is false.

(Source: P.A. 93-25, eff. 6-20-03.)

(30 ILCS 500/50-14)

Sec. 50-14. Environmental Protection Act violations.

(a) Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act shall do business with the State of Illinois or any State agency ~~or enter into a subcontract that is subject to this Code~~ from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved in the violation continues to have any involvement with the business.

(b) A person or business otherwise barred from doing business with the State of Illinois or any State agency ~~or subcontracting~~ under this Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to

contracting with that person or business.

(c) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, ~~or contractor, or subcontractor, respectively,~~ that the bidder, ~~or contractor, or subcontractor~~ is not barred from being awarded a contract or subcontract under this Section and ~~that the contractor~~ acknowledges that the contracting State agency may declare the related contract void if any of the certifications ~~certification~~ completed pursuant to this subsection (c) ~~are~~ ~~is~~ false.

(Source: P.A. 93-575, eff. 1-1-04; 93-826, eff. 7-28-04.)

(30 ILCS 500/50-14.5)

Sec. 50-14.5. Lead Poisoning Prevention Act violations. Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act are prohibited from doing business with the State of Illinois or any State agency, or subcontracting under this Code, until the violation is mitigated.

(Source: P.A. 94-879, eff. 6-20-06.)

(30 ILCS 500/50-20)

Sec. 50-20. Exemptions. ~~The~~ ~~With the approval of the~~ appropriate chief procurement officer ~~involved,~~ the Governor, or an executive ethics board or commission ~~he or she designates,~~ may file a request with the Executive Ethics Commission to exempt named individuals from the prohibitions of Section 50-13 when, in his or her, ~~or its~~ judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. The Executive Ethics Commission may grant an exemption after a public hearing at which any person may present testimony. The chief procurement officer shall publish notice of the date, time, and location of the hearing in the online electronic Bulletin at least 14 days prior to the hearing and provide notice to the individual subject to the waiver and the Procurement Policy Board. The Executive Ethics Commission shall also provide public notice of the date, time, and location of the hearing on its website. If the Commission grants an exemption, the ~~An~~ exemption is effective only ~~if~~ ~~when~~ it is filed with the Secretary of State and the Comptroller ~~prior to the execution of any contract~~ and includes a statement setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the Illinois Procurement Bulletin. A contract for which a waiver has been issued but has not been filed in accordance with this Section is voidable by the State. The changes to this Section made by this amendatory Act of the 96th General Assembly shall apply to exemptions granted on or after its effective date.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-21 new)

Sec. 50-21. Bond issuances.

(a) A State agency shall not enter into a contract with respect to the issuance of bonds or other securities by the State or a State agency with any entity that uses an independent consultant.

As used in this subsection, "independent consultant" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of receiving payment from the entity or another person. "Independent consultant" does not include (i) a finance professional employed by the entity or (ii) a person whose sole basis of compensation from the entity is the actual provision of legal, accounting, or engineering advice, services, or assistance in connection with the securities business that the entity seeks to obtain or retain.

(b) Prior to entering into a contract with a State agency with respect to the issuance of bonds or other securities by the State or a State agency, a contracting party subject to the Municipal Securities Rulemaking Board's Rule G-37, or a successor rule, shall include a certification that the contracting entity is and shall remain for the duration of the contract in compliance with the Rule's requirements for reporting political contributions. Subsequent failure to remain in compliance shall make the contract voidable by the State.

(c) If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-37 (or any successor rule) with respect to the making of prohibited political contributions or payments, then the chief procurement officer shall impose a penalty that is at least twice the fine assessed against that entity by the federal agency. The chief procurement officer shall also bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business, then the chief procurement officer shall bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

(d) Nothing in this Section shall be construed to apply retroactively, but shall apply prospectively on and after the effective date of this amendatory Act of the 96th General Assembly.

(30 ILCS 500/50-30)

Sec. 50-30. Revolving door prohibition.

(a) Chief procurement officers, ~~associate procurement officers~~, State purchasing officers, procurement compliance monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This subsection applies only to persons who terminate an affected position on or after January 15, 1999.

(b) In addition to any other provisions of this Code, employment of former State employees is subject to the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

(30 ILCS 500/50-35)

Sec. 50-35. Financial disclosure ~~Disclosure~~ and potential conflicts of interest.

(a) All offers from responsive bidders or offerors with an annual value of more than \$10,000, and all subcontracts, copies of which must be provided by Section 20-120 of this Code, shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer and each subcontractor to be used. The financial disclosure of each successful bidder or offeror and its subcontractors shall be incorporated as a material term of the contract and shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer. Each disclosure under this Section and Section 50-34 shall be signed and made under penalty of perjury by an authorized officer or employee on behalf of the bidder or offeror, and must be filed with the Procurement Policy Board.

(b) Disclosure ~~by the responsive bidders or offerors~~ shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the disclosing bidding entity or its parent entity, whichever is less, unless the contractor, ~~or bidder, or subcontractor~~ (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

(1) State employment, currently or in the previous 3 years, including contractual employment of services.

(2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.

(3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

(4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous

3 years.

(6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

(8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter.

(9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(b-1) The disclosure required under this Section must also include the name and address of each lobbyist and other agent of the bidder or offeror who is not identified under subsections (a) and (b) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(b-2) The disclosure required under this Section must also include, for each of the persons identified in subsection (b) or (b-1), each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the chief procurement officers, State purchasing officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

(d) When a potential for a conflict of interest is identified, discovered, or reasonably suspected, the chief procurement officer or State procurement officer shall send the contract to the Procurement Policy Board. The Board shall recommend, in writing, whether to allow or void the contract, bid, offer, or subcontract weighing the best interest of the State of Illinois. All recommendations shall be submitted to the chief procurement officer. The chief procurement officer must hold a public hearing if the Procurement Policy Board makes a recommendation to (i) void a contract or (ii) void a bid or offer and the chief procurement officer selected or intends to award the contract to the bidder or offeror. A chief procurement officer is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer. The recommendation and proceedings of any hearing, if applicable, shall become part of the contract, bid, or proposal file and shall be available to the public.

(d) In the case of any contract for personal services in excess of \$50,000; any contract competitively bid in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. The comment and determination shall become a publicly available part of the contract, bid, or proposal file.

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

(f) Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, subcontracts, or relationships with the State for a period of up to 2 years.

(g) Intentional, willful, or material failure to disclose shall render the contract, bid, proposal,

subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, subcontracts, or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether and when to reinstate.

(h) In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases, or other ongoing procurement relationships the bidding, proposing, ~~or~~ offering, or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.

(i) The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract.

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

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse ~~and minor children~~ of any such persons.

"Affiliated entity" means (i) any ~~corporate parent and each operating~~ subsidiary of the bidding or contracting business

entity, (ii) ~~each operating subsidiary of the corporate parent of the bidding or contracting business entity any member of the same unitary business group,~~ (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business

entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition  ~~, or other employee with executive decision making authority over the long term and day to day affairs of the entity employing the employee, or an employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee.~~

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and proposals on State contracts total more than \$50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or proposal during the period beginning on the date the invitation for bids or request for proposals is issued and ending on the day after the date the contract is awarded.

(d) All contracts between State agencies and a business entity that violate subsection (b)

or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b)

or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09.)

(30 ILCS 500/50-38 new)

Sec. 50-38. Lobbying restrictions.

(a) A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder.

(b) Any bidder or offeror on a State contract that hires a person required to register under the Lobbyist Registration Act to assist in obtaining a contract shall (i) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract, (ii) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration, and (iii) sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration were billed to the State. This information, along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The chief procurement officer shall post this information, together with the contract award notice, in the online Procurement Bulletin.

(c) Ban on contingency fee. No person or entity shall retain a person or entity to attempt to influence the outcome of a procurement decision made under this Code for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than \$10,000.

(30 ILCS 500/50-39 new)

Sec. 50-39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter,

including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board.

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

(c) Additionally, when an oral communication made by a person required to register under the Lobbyist Registration Act is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in subsection (b).

(d) The Procurement Policy Board shall make each report submitted pursuant to this Section available on its website within 7 days after its receipt of the report. The Procurement Policy Board may promulgate rules to ensure compliance with this Section.

(e) An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge.

(30 ILCS 500/50-60)

Sec. 50-60. Voidable contracts.

(a) If any contract or amendment thereto is entered into or purchase or expenditure of funds is made at any time in violation of this Code or any other law, the contract or amendment thereto may be declared void by the chief procurement officer or may be ratified and affirmed, provided the chief procurement officer determines that ratification is in the best interests of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

(b) If, during the term of a contract, the chief procurement officer ~~contracting agency~~ determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of this Code, the chief procurement officer ~~State agency~~ may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Board shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the chief procurement officer ~~contracting agency~~ determines that the contractor is in violation of Section 50-10.5 of this Code, the chief procurement officer ~~contracting agency~~ shall declare the contract void.

(d) If, during the term of a contract, the contracting agency learns from an annual certification or otherwise determines that the contractor no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State.

(e) If, during the term of a contract, the chief procurement officer learns from an annual certification or otherwise determines that a subcontractor subject to Section 20-120 no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the related contract void if it determines that voiding the contract is in the best interests of the State.

(f) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to actions taken by the chief procurement officer on or after its effective date.

(Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

(30 ILCS 500/50-65)

Sec. 50-65. ~~Suspension Contractor suspension.~~ Any contractor or subcontractor may be suspended for violation of this Code or for failure to conform to specifications or terms of delivery. Suspension shall be for cause and may be for a period of up to 10 years at the discretion of the applicable chief procurement officer. Contractors or subcontractors may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.

(Source: P.A. 93-77, eff. 7-2-03.)

(30 ILCS 500/50-70)

Sec. 50-70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

- (1) Article 33E of the Criminal Code of 1961;
- (2) the Illinois Human Rights Act;

- (3) the Discriminatory Club Act;
- (4) the Illinois Governmental Ethics Act;
- (5) the State Prompt Payment Act;
- (6) the Public Officer Prohibited Activities Act;
- (7) the Drug Free Workplace Act;
- (8) the Illinois Power Agency Act; ~~and~~
- (9) the Employee Classification Act; ~~and~~ -
- (10) the State Officials and Employees Ethics Act.

(Source: P.A. 95-26, eff. 1-1-08; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

(30 ILCS 500/53-10)

Sec. 53-10. Concessions and leases of State property.

(a) Except for property under the jurisdiction of a public institution of higher education, concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the State agency with jurisdiction over the property, whether tangible or intangible.

(b) Except for property under the jurisdiction of a public institution of higher education, all leases of State property and concessions shall be reduced to writing and shall be awarded under the provisions of Article 20, except that the contract shall be awarded to the highest and best bidder or offeror.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/1-15.03 rep.)

Section 95-36. The Illinois Procurement Code is amended by repealing Section 1-15.03.

Section 95-38. The Business Enterprise for Minorities, Females, and Persons with Disabilities Act is amended by changing Sections 2 and 4 as follows:

(30 ILCS 575/2) (from Ch. 127, par. 132.602)

(Section scheduled to be repealed on June 30, 2010)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

(a) African American (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:

amputation,  
 arthritis,  
 autism,  
 blindness,  
 burn injury,  
 cancer,  
 cerebral palsy,  
 cystic fibrosis,  
 deafness,  
 head injury,  
 heart disease,  
 hemiplegia,  
 hemophilia,  
 respiratory or pulmonary dysfunction,  
 mental retardation,

mental illness,  
 multiple sclerosis,  
 muscular dystrophy,  
 musculoskeletal disorders,  
 neurological disorders, including stroke and epilepsy,  
 paraplegia,  
 quadriplegia and other spinal cord conditions,  
 sickle cell anemia,  
 specific learning disabilities, or  
 end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose. A business owned and controlled by females shall select and designate whether such business is to be certified as a "Female-owned business" or "Minority-owned business" if the females are also minorities.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating

responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business that has ~~average~~ annual gross sales of less than \$75,000,000 over the 3 most recent calendar years of less than \$31,400,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business concern Department of Central Management Services.

(Source: P.A. 95-344, eff. 8-21-07.)

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on June 30, 2010)

Sec. 4. Award of State contracts.

(a) Except as provided in subsections (b) and (c), not less than 20% ~~42%~~ of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as a goal to be awarded to businesses owned by minorities, females, and persons with disabilities; provided, however, that ~~contracts representing at least five twelfths~~ of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section , contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to female-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities shall be awarded to female-owned businesses, and that ~~contracts representing at least one sixth of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section shall be awarded to businesses owned by persons with disabilities.~~

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or university which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, females, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization, and staging of the games, the University of Illinois shall establish a goal of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to female-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(d) ~~(e)~~ Within one year after April 28, 2009 (the effective date of Public Act 96-8) ~~this amendatory Act of the 96th General Assembly~~, the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and female business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8) ~~this amendatory Act~~, the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and female participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

(Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; revised 4-30-09.)

Section 95-40. The Illinois Grant Funds Recovery Act is amended by changing Section 4 and by adding Section 4.1 as follows:

(30 ILCS 705/4) (from Ch. 127, par. 2304)

Sec. 4. Grant Application and Agreement Requirements ~~Requirement~~.

(a) Any person or organization, public or private, desiring to receive grant funds must submit a grant application to the appropriate grantor agency. Applications for grant funds shall be made on prescribed forms developed by the grantor agency, and shall include, without being limited to, the following provisions:

(1) the name, address, chief officers, and general description of the applicant;

(2) a general description of the program, project, or use for which grant funding is requested;

(3) such plans, equipment lists, and other documents as may be required to show the type, structure, and general character of the program, project, or use for which grant funding is requested;

(4) cost estimates of developing, constructing, operating, or completing the program, project, or use for which grant funding is requested; and

(5) a program of proposed expenditures for the grant funds.

(b) Grant funds may not be used except pursuant to a written grant agreement, and any disbursement of grant funds without a grant agreement is void. At a minimum, a grant agreement must:

(1) ~~(a)~~ describe the purpose of the grant and be signed by the grantor agency making the grant and all grantees of the grant;

(2) ~~(b)~~ specify how payments shall be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant, including, for those grants in excess of \$25,000, the filing of quarterly reports describing the progress of the program, project, or use and the expenditure of the grant funds related thereto;

(3) ~~(c)~~ specify the period of time for which the grant is valid and, subject to the limitation of Section 5, the period of time during which grant funds may be expended by the grantee; ~~and~~

(4) contain a provision that any grantees receiving grant funds are required to permit the grantor agency, the Auditor General, or the Attorney General to inspect and audit any books, records, or papers related to the program, project, or use for which grant funds were provided;

(5) ~~(d)~~ contain a provision that all funds remaining at the end of the grant agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days; ~~and~~

(6) contain a provision in which the grantee certifies under oath that all information in the grant agreement is true and correct to the best of the grantee's knowledge, information, and belief; that the funds shall be used only for the purposes described in the grant agreement; and that the award of grant funds is conditioned upon such certification.

(Source: P.A. 83-640.)

(30 ILCS 705/4.1 new)

Sec. 4.1. Grant Fund Distribution Suspension. Grantor agencies may withhold or suspend the distribution of grant funds for failure to file required reports.

#### ARTICLE 99

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

#### AMENDMENT NO. 2 TO SENATE BILL 51

AMENDMENT NO. 2. Amend Senate Bill 51, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, by replacing line 21 on page 49 through line 11 on page 50 with the following:

"Sec. 10-25. Executive Procurement Officer. There is hereby created, under the supervision of the Office of the Governor, an Executive Procurement Office, headed by an Executive Procurement Officer, who shall be appointed by the Governor. The Executive Procurement Officer shall have the following powers and duties:

(1) To recommend policies and procedures to ensure consistency between the chief procurement officers and their staffs, provided that each chief procurement officer shall have final and exclusive authority over particular procurement decisions.

(2) To assist chief procurement officers in the development of and revision of policies that decisions on procurement related matters remain free from political or other inappropriate extrinsic influence.

[May 21, 2009]

(3) To provide guidance to all chief procurement officers and their staffs on how to ensure that all State procurement is conducted in a manner that is appropriately responsive to and sensitive to the needs of vendors and the business community in general through the development of technologically-sophisticated, efficient, and innovative methodologies for managing procurement processes.

(4) Respecting the authority of the chief procurement officers over procurement in their respective areas, to assist with the implementation of policies mandated through statute or executive order that promote diversity among State contractors, including, but not limited to, the implementation of the Business Enterprise and Disadvantaged Business Enterprise Program.

The Executive"; and

on page 51, in line 20, by inserting "business" after "10"; and

on page 52, in line 20, by inserting "business" after "10".

Under the rules, the foregoing **Senate Bill No. 51**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

## PRESENTATION OF RESOLUTION

### SENATE RESOLUTION NO. 298

Offered by Senator Collins and all Senators:

Mourns the death of Tarvie Hayes Saunders.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

At the hour of 1:30 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

## AFTER RECESS

At the hour of 2:36 o'clock p.m., the Senate resumed consideration of business.

Senator DeLeo, presiding.

## JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 69  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 149  
 Motion to Concur in House Amendment 1 to Senate Bill 209  
 Motion to Concur in House Amendment 1 to Senate Bill 214  
 Motion to Concur in House Amendment 1 to Senate Bill 318  
 Motion to Concur in House Amendment 1 to Senate Bill 1408  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1544  
 Motion to Concur in House Amendment 1 to Senate Bill 1729  
 Motion to Concur in House Amendment 1 to Senate Bill 1866  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1877  
 Motion to Concur in House Amendment 1 to Senate Bill 1956  
 Motion to Concur in House Amendment 1 to Senate Bill 2111

## MESSAGES FROM THE HOUSE

[May 21, 2009]

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 54

A bill for AN ACT concerning ethics.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 54

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 54**

AMENDMENT NO. 1. Amend Senate Bill 54 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Governmental Ethics Act is amended by changing Section 4A-101 as follows: (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

Sec. 4A-101. Persons required to file. The following persons shall file verified written statements of economic interests, as provided in this Article:

(a) Members of the General Assembly and candidates for nomination or election to the General Assembly.

(b) Persons holding an elected office in the Executive Branch of this State, and candidates for nomination or election to these offices.

(c) Members of a Commission or Board created by the Illinois Constitution, and candidates for nomination or election to such Commission or Board.

(d) Persons whose appointment to office is subject to confirmation by the Senate.

(e) Holders of, and candidates for nomination or election to, the office of judge or associate judge of the Circuit Court and the office of judge of the Appellate or Supreme Court.

(f) Persons who are employed by any branch, agency, authority or board of the government of this State, including but not limited to, the Illinois State Toll Highway Authority, the Illinois Housing Development Authority, the Illinois Community College Board, and institutions under the jurisdiction of the Board of Trustees of the University of Illinois, Board of Trustees of Southern Illinois University, Board of Trustees of Chicago State University, Board of Trustees of Eastern Illinois University, Board of Trustees of Governor's State University, Board of Trustees of Illinois State University, Board of Trustees of Northeastern Illinois University, Board of Trustees of Northern Illinois University, Board of Trustees of Western Illinois University, or Board of Trustees of the Illinois Mathematics and Science Academy, and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within the government of this State, or who exercise similar authority within the government of this State;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the State in the amount of \$5,000 or more;

(3) have authority for the issuance or promulgation of rules and regulations within areas under the authority of the State;

(4) have authority for the approval of professional licenses;

(5) have responsibility with respect to the financial inspection of regulated nongovernmental entities;

(6) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the State;

(7) have supervisory responsibility for 20 or more employees of the State; ~~or~~

(8) negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the State, whether real, personal, tangible, or intangible; ~~or -~~

(9) have responsibility with respect to the procurement of goods or services.

(g) Persons who are elected to office in a unit of local government, and candidates for

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nomination or election to that office, including regional superintendents of school districts.

(h) Persons appointed to the governing board of a unit of local government, or of a special district, and persons appointed to a zoning board, or zoning board of appeals, or to a regional, county, or municipal plan commission, or to a board of review of any county, and persons appointed to the Board of the Metropolitan Pier and Exposition Authority and any Trustee appointed under Section 22 of the Metropolitan Pier and Exposition Authority Act, and persons appointed to a board or commission of a unit of local government who have authority to authorize the expenditure of public funds. This subsection does not apply to members of boards or commissions who function in an advisory capacity.

(i) Persons who are employed by a unit of local government and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, division, bureau, authority or other administrative unit within the unit of local government, or who exercise similar authority within the unit of local government;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the unit of local government in the amount of \$1,000 or greater;

(3) have authority to approve licenses and permits by the unit of local government; this item does not include employees who function in a ministerial capacity;

(4) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the unit of local government;

(5) have authority to issue or promulgate rules and regulations within areas under the authority of the unit of local government; or

(6) have supervisory responsibility for 20 or more employees of the unit of local government.

(j) Persons on the Board of Trustees of the Illinois Mathematics and Science Academy.

(k) Persons employed by a school district in positions that require that person to hold an administrative or a chief school business official endorsement.

(l) Special government agents. A "special government agent" is a person who is directed, retained, designated, appointed, or employed, with or without compensation, by or on behalf of a statewide executive branch constitutional officer to make an ex parte communication under Section 5-50 of the State Officials and Employees Ethics Act or Section 5-165 of the Illinois Administrative Procedure Act.

(m) Members of the board of commissioners of any flood prevention district.

(n) Members of the board of any retirement system or investment board established under the Illinois Pension Code, if not required to file under any other provision of this Section.

(o) Members of the board of any pension fund established under the Illinois Pension Code, if not required to file under any other provision of this Section.

This Section shall not be construed to prevent any unit of local government from enacting financial disclosure requirements that mandate more information than required by this Act.

(Source: P.A. 95-719, eff. 5-21-08; 96-6, eff. 4-3-09.)

Section 10. The State Officials and Employees Ethics Act is amended by changing Sections 1-5, 5-10, 5-30, 5-40, 5-45, 15-5, 15-25, 20-5, 20-10, 20-20, 20-21, 20-45, 20-50, 20-55, 20-60, 20-65, 20-70, 20-80, 20-85, 20-90, 20-95, 25-5, 25-20, 25-50, 25-65, 25-95, 35-5, and 50-5 and by adding Sections 20-20a, 20-51, 20-52, 25-20a, 25-51, 25-52, and 50-10 as follows:

(5 ILCS 430/1-5)

Sec. 1-5. Definitions. As used in this Act:

"Appointee" means a person appointed to a position in or with a State agency, regardless of whether the position is compensated.

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to

an elected State office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act.

"Commission" means an ethics commission created by this Act.

"Compensated time" means any time worked by or credited to a State employee that counts toward any minimum work time requirement imposed as a condition of employment with a State agency, but does not include any designated State holidays or any period when the employee is on a leave of absence.

"Compensatory time off" means authorized time off earned by or awarded to a State employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with a State agency.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

"Employee" means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed or (ii) any appointed or elected commissioner, trustee, director, or board member of a board of a State agency, including any retirement system or investment board subject to the Illinois Pension Code or (iii) any other appointee.

"Employment benefits" include but are not limited to the following: modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review.

"Executive branch constitutional officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, or officer.

"Governmental entity" means a unit of local government (including a community college district) or a school district but not a State agency.

"Leave of absence" means any period during which a State employee does not receive (i) compensation for State employment, (ii) service credit towards State pension benefits, and (iii) health insurance benefits paid for by the State.

"Legislative branch constitutional officer" means a member of the General Assembly and the Auditor General.

"Legislative leader" means the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

"Member" means a member of the General Assembly.

"Officer" means an executive branch constitutional officer or a legislative branch constitutional officer.

"Political" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties or governmental and public service functions.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a

campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(2) does business or seeks to do business (i) with the member or officer or (ii) in the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee;

(3) conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors

(6) is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source".

"State agency" includes all officers, boards, commissions and agencies created by the Constitution, whether in the executive or legislative branch; all officers, departments, boards, commissions, agencies, institutions, authorities, public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act (except community colleges), and bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government (including community college districts) and their officers, school districts, and boards of election commissioners; and all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor. "State agency" includes the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, and the legislative support services agencies. "State agency" includes the Office of the Auditor General. "State agency" does not include the judicial branch.

"State employee" means any employee of a State agency.

"Ultimate jurisdictional authority" means the following:

(1) For members, legislative partisan staff, and legislative secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the

House of Representatives, or Minority Leader of the House of Representatives.

(2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.

(3) For State employees who are professional staff or employees of the House of Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For State employees of the Auditor General, the Auditor General.

(6) For State employees of public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act (except community colleges), the board of trustees of the appropriate public institution of higher learning.

(7) For State employees of an executive branch constitutional officer other than those described in paragraph (6), the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

(Source: P.A. 95-880, eff. 8-19-08; 96-6, eff. 4-3-09.)

(5 ILCS 430/5-10)

Sec. 5-10. Ethics training.

(a) Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

(b) Each ultimate jurisdictional authority subject to the Executive Ethics Commission shall submit to the Executive Ethics Commission, at least annually, or more frequently as required by that Commission, an annual report that summarizes ethics training that was completed during the previous year, and lays out the plan for the ethics training programs in the coming year.

(c) Each Inspector General shall set standards and determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 30 days ~~6 months~~ after commencement of his or her office or employment.

(d) Upon completion of the ethics training program, each officer, member, and employee must certify in writing that the person has completed the training program. Each officer, member, and employee must provide to his or her ethics officer a signed copy of the certification by the deadline for completion of the ethics training program.

(e) The ethics training provided under this Act by the Secretary of State may be expanded to satisfy the requirement of Section 4.5 of the Lobbyist Registration Act.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(5 ILCS 430/5-30)

Sec. 5-30. Prohibited offer or promise.

(a) An officer or employee of the executive or legislative branch or a candidate for an executive or legislative branch office may not promise anything of value related to State government, including but not limited to positions in State government, promotions, ~~or~~ salary increases, other employment benefits, board or commission appointments, favorable treatment in any official or regulatory matter, the awarding of any public contract, or action or inaction on any legislative or regulatory matter, in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

(b) Any State employee who is requested or directed by an officer, member, or employee of the executive or legislative branch or a candidate for an executive or legislative branch office to engage in activity prohibited by Section 5-30 shall report such request or directive to the appropriate ethics officer or Inspector General.

(c) Nothing in this Section prevents the making or accepting of voluntary contributions otherwise in accordance with law.

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/5-40)

Sec. 5-40. Fundraising in Sangamon County. Except as provided in this Section, any executive branch constitutional officer, any candidate for an executive branch constitutional office, any member of the General Assembly, any candidate for the General Assembly, any political caucus of the General

Assembly, or any political committee on behalf of any of the foregoing may not hold a political fundraising function in Sangamon County on any day the legislature is in session (i) during the period beginning February 1 and ending on the later of the actual adjournment dates of either house of the spring session and (ii) during fall veto session. For purposes of this Section, the legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting.

During the period beginning June 1 and ending on the first day of fall veto session each year, this Section does not apply to (i) a member of the General Assembly whose legislative or representative district is entirely within Sangamon County or (ii) a candidate for the General Assembly from that legislative or representative district.

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/5-45)

Sec. 5-45. Procurement; revolving door prohibition.

(a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the ~~decision to award of State contracts, or the issuance of State contract change orders,~~ with a cumulative value of ~~over~~ \$25,000 or more to the person or entity, or its parent or subsidiary.

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or of fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making ~~made~~ a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

~~(e) The requirements of this Section may be waived (i) for the executive branch, in writing by the Executive Ethics Commission, (ii) for the legislative branch, in writing by the Legislative Ethics Commission, and (iii) for the Auditor General, in writing by the Auditor General. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Executive Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Legislative Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. The waiver shall be granted upon a showing that the prospective employment or relationship did not affect the decisions referred to in sections (a) and (b).~~

~~(c) Within 6 months after the effective date of this amendatory Act of the 96th General Assembly, each executive branch constitutional officer and legislative leader, the Auditor General, and the Joint Committee on Legislative Support Services shall adopt a policy delineating which State positions under his or her jurisdiction and control, by the nature of their duties, may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions. The Governor shall adopt such a policy for all State employees of the executive branch not under the jurisdiction and control of any other executive branch constitutional officer. (d) This Section applies only to persons who terminate an affected position on or after the effective date of this amendatory Act of the 93rd General Assembly.~~

The policies required under subsection (c) of this Section shall be filed with the appropriate ethics commission established under this Act or, for the Auditor General, with the Office of the Auditor General.

(d) Each Inspector General shall have the authority to determine that additional State positions under his or her jurisdiction, not otherwise subject to the policies required by subsection (c) of this Section, are nonetheless subject to the notification requirement of subsection (f) below due to their involvement in the award of State contracts or in regulatory or licensing decisions.

(e) The Joint Committee on Legislative Support Services, the Auditor General, and each of the executive branch constitutional officers and legislative leaders subject to subsection (c) of this Section shall provide written notification to all employees in positions subject to the policies required by subsection (c) or a determination made under subsection (d): (1) upon hiring, promotion, or transfer into the relevant position; and (2) at the time the employee's duties are changed in such a way as to qualify that employee. An employee receiving notification must certify in writing that the person was advised of

the prohibition and the requirement to notify the appropriate Inspector General in subsection (f).

(f) Any State employee in a position subject to the policies required by subsection (c) or to a determination under subsection (d), but who does not fall within the prohibition of subsection (h) below, who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Inspector General. Within 10 calendar days after receiving notification from an employee in a position subject to the policies required by subsection (c), such Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by subsection (a) or (b). In making a determination, in addition to any other relevant information, an Inspector General shall assess the effect of the prospective employment or relationship upon decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions. A determination by an Inspector General must be in writing, signed and dated by the Inspector General, and delivered to the subject of the determination within 10 calendar days or the person is deemed eligible for the employment opportunity. For purposes of this subsection, "appropriate Inspector General" means (i) for members and employees of the legislative branch, the Legislative Inspector General; (ii) for the Auditor General and employees of the Office of the Auditor General, the Inspector General provided for in Section 30-5 of this Act; and (iii) for executive branch officers and employees, the Inspector General having jurisdiction over the officer or employee. Notice of any determination of an Inspector General and of any such appeal shall be given to the ultimate jurisdictional authority, the Attorney General, and the Executive Ethics Commission.

(g) An Inspector General's determination regarding restrictions under subsection (a) or (b) may be appealed to the appropriate Ethics Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination.

On appeal, the Ethics Commission or Auditor General shall seek, accept, and consider written public comments regarding a determination. In deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission or Auditor General shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions. The Ethics Commission shall decide whether to uphold an Inspector General's determination within 10 calendar days or the person is deemed eligible for the employment opportunity.

(h) The following officers, members, or State employees shall not, within a period of one year immediately after termination of office or State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the person or entity or its parent or subsidiary, during the year immediately preceding termination of State employment, was a party to a State contract or contracts with a cumulative value of \$25,000 or more involving the officer, member, or State employee's State agency, or was the subject of a regulatory or licensing decision involving the officer, member, or State employee's State agency, regardless of whether he or she participated personally and substantially in the award of the State contract or contracts or the making of the regulatory or licensing decision in question:

- (1) members or officers;
- (2) members of a commission or board created by the Illinois Constitution;
- (3) persons whose appointment to office is subject to the advice and consent of the Senate;
- (4) the head of a department, commission, board, division, bureau, authority, or other administrative unit within the government of this State;
- (5) chief procurement officers, State purchasing officers, and their designees whose duties are directly related to State procurement; and
- (6) chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(5 ILCS 430/15-5)

Sec. 15-5. Definitions. In this Article:

"Public body" means (1) any officer, member, or State agency; (2) the federal government; (3) any local law enforcement agency or prosecutorial office; (4) any federal or State judiciary, grand or petit jury, law enforcement agency, or prosecutorial office; and (5) any officer, employee, department, agency, or other division of any of the foregoing.

"Supervisor" means an officer, a member, or a State employee who has the authority to direct and control the work performance of a State employee or who has authority to take corrective action regarding any violation of a law, rule, or regulation of which the State employee complains.

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"Retaliatory action" means the reprimand, discharge, suspension, demotion, ~~or~~ denial of promotion or transfer or change of any State employee in the terms or and conditions of employment of any State employee, ~~and~~ that is taken in retaliation for a State employee's involvement in protected activity, as set forth in Section 15-10.

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/15-25)

Sec. 15-25. Remedies. The State employee may be awarded all remedies necessary to make the State employee whole and to prevent future violations of this Article. The circuit courts of this State shall have jurisdiction to hear cases brought under this Article. Remedies imposed by the court may include, but are not limited to, all of the following:

- (1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
- (2) 2 times the amount of back pay;
- (3) interest on the back pay;
- (4) the reinstatement of full fringe benefits and seniority rights; and
- (5) the payment of reasonable costs and attorneys' fees.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

A member or legislative branch State employee serving on an executive branch board or commission remains subject to the jurisdiction of the Legislative Ethics Commission and is not subject to the jurisdiction of the Executive Ethics Commission.

(d-5) The Executive Ethics Commission shall have jurisdiction over all chief procurement officers and procurement compliance monitors and their respective staffs. The Executive Ethics Commission shall have jurisdiction over any matters arising under the Illinois Procurement Code if the Commission is

given explicit authority in that Code.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission ~~or by the Compensation Review Board, whichever amount is higher.~~ The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(i) The Executive Ethics Commission shall appoint, by a majority of the members appointed to the Commission, chief procurement officers and procurement compliance monitors in accordance with the provisions of the Illinois Procurement Code. The compensation of a chief procurement officer and procurement compliance monitor shall be determined by the Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-10)

Sec. 20-10. Offices of Executive Inspectors General.

(a) Five independent Offices of the Executive Inspector General are created, one each for the Governor, the Attorney General, the Secretary of State, the Comptroller, and the Treasurer. Each Office shall be under the direction and supervision of an Executive Inspector General and shall be a fully independent office with separate appropriations.

(b) The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint an Executive Inspector General, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of Executive Inspector General, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of Executive Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate.

Nothing in this Article precludes the appointment by the Governor, Attorney General, Secretary of State, Comptroller, or Treasurer of any other inspector general required or permitted by law. The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer each may appoint an existing inspector general as the Executive Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Executive Inspector General required by this Article. An appointing authority may not appoint a relative as an Executive Inspector General.

Each Executive Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B)

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as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The term of each initial Executive Inspector General shall commence upon qualification and shall run through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial term, each Executive Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. An Executive Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the Executive Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Executive Inspector General appointed by the Attorney General shall have jurisdiction over the Attorney General and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Attorney General. The Executive Inspector General appointed by the Secretary of State shall have jurisdiction over the Secretary of State and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Secretary of State. The Executive Inspector General appointed by the Comptroller shall have jurisdiction over the Comptroller and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Comptroller. The Executive Inspector General appointed by the Treasurer shall have jurisdiction over the Treasurer and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Treasurer. The Executive Inspector General appointed by the Governor shall have jurisdiction over the Governor, the Lieutenant Governor, and all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The ~~minimum~~ compensation for each Executive Inspector General shall be determined by the Executive Ethics Commission and shall be made from appropriations made to the Comptroller for this purpose. ~~The actual compensation for each Executive Inspector General shall be determined by the appointing executive branch constitutional officer and must be at or above the minimum compensation level set by the Executive Ethics Commission.~~ Subject to Section 20-45 of this Act, each Executive Inspector General has full authority to organize his or her Office of the Executive Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. A separate appropriation shall be made for each Office of Executive Inspector General.

(e) No Executive Inspector General or employee of the Office of the Executive Inspector General may, during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or

(4) ~~advocate for the appointment of another person to an appointed or elected office or position or~~ actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Executive Inspector General or employee of the Office of the Executive Inspector General may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Executive Ethics Commission.

(f) An Executive Inspector General may be removed only for cause and may be removed only by the appointing constitutional officer. At the time of the removal, the appointing constitutional officer must

report to the Executive Ethics Commission the justification for the removal.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-20)

Sec. 20-20. Duties of the Executive Inspectors General. In addition to duties otherwise assigned by law, each Executive Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. ~~The Executive Inspector General may receive information through the Office of any Executive Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Executive Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously.~~ An investigation

may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Executive Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Executive Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 20-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Executive Inspector General with the Executive Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Executive Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Executive Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(9) To review hiring and employment files of each State agency within the Executive Inspector General's jurisdiction to ensure compliance with Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and with all applicable employment laws.

(10) To establish a policy that ensures the appropriate handling and correct recording of all investigations conducted by the Office, and to ensure that the policy is accessible via the Internet in order that those seeking to report those allegations are familiar with the process and that the subjects of those allegations are treated fairly.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-20a new)

Sec. 20-20a. Attorney General investigatory authority. In addition to investigatory authority otherwise granted by law, the Attorney General shall have the authority to investigate violations of this Act pursuant to Section 20-50 or Section 20-51 of this Act after receipt of notice from the Executive Ethics Commission or pursuant to Section 5-45. The Attorney General shall have the discretion to determine the appropriate means of investigation as permitted by law, including (i) the request of information relating to an investigation from any person when the Attorney General deems that information necessary in conducting an investigation; and (ii) the issuance of subpoenas to compel the attendance of witnesses for the purposes of sworn testimony and production of documents and other items for inspection and copying and the service of those subpoenas.

Nothing in this Section shall be construed as granting the Attorney General the authority to investigate alleged misconduct pursuant to notice received under Section 20-50 or Section 20-51 of this Act, if the information contained in the notice indicates that the alleged misconduct was minor in nature. As used in this Section, misconduct that is "minor in nature" means misconduct that was a violation of office, agency, or department policy and not of this Act or any other civil or criminal law.

(5 ILCS 430/20-21)

Sec. 20-21. Special Executive Inspectors General.

(a) The Executive Ethics Commission, on its own initiative and by majority vote, may appoint special Executive Inspectors General (i) to investigate alleged violations of this Act if an investigation by the

Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 20-65 for failing to complete the investigation are insufficient, ~~and~~ (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning an Executive Inspector General or employee of an Office of an Executive Inspector General and to investigate those allegations, (iii) to investigate matters within the jurisdiction of an Executive Inspector General if an Executive Inspector General (including his or her employees) could be reasonably deemed to be a wrongdoer or suspect, or if in the determination of the Commission, an investigation presents real or apparent conflicts of interest for the Office of the Executive Inspector General, and (iv) to investigate alleged violations of this Act pursuant to Section 20-50 and Section 20-51.

(b) A special Executive Inspector General must have the same qualifications as an Executive Inspector General appointed under Section 20-10.

(c) The Commission's appointment of a special Executive Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Executive Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as an Executive Inspector General appointed under Section 20-10.

(e) A special Executive Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Executive Inspector General and its recommendations, if any, to the appointing authority of the appropriate Executive Inspector General.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-45)

Sec. 20-45. Standing; representation.

(a) With the exception of a person appealing an Inspector General's determination under Section 5-45 of this Act or under applicable provisions of the Illinois Procurement Code, only ~~Only~~ an Executive Inspector General or the Attorney General may bring actions before the Executive Ethics Commission. The Attorney General may bring actions before the Executive Ethics Commission upon receipt of notice pursuant to Section 5-50 or Section 5-51 or pursuant to Section 5-45.

(b) With the exception of Section 5-45, the ~~The~~ Attorney General shall represent an Executive Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Executive Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the appropriate Office of the Executive Inspector General.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-50)

Sec. 20-50. Investigation reports; ~~complaint procedure.~~

(a) If an Executive Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate. The appropriate ultimate jurisdictional authority or agency head shall respond to the summary report within 20 days, in writing, to the Executive Inspector General. The response shall include a description of any corrective or disciplinary action to be imposed.

(b) The summary report of the investigation shall include the following:

- (1) A description of any allegations or other information received by the Executive Inspector General pertinent to the investigation.
- (2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Executive Inspector General deems relevant to the investigation or resulting recommendations.

(c) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head ~~Not less than 30 days after delivery of the summary report of an investigation under subsection (a), the Executive Inspector General shall notify the Commission and the Attorney General if the Executive Inspector General believes that a complaint should be filed with the Commission. If the Executive Inspector General desires to file a petition for leave to file a complaint with the Commission, the Executive Inspector General shall submit the summary report and supporting documents to notify the Commission and the Attorney General. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Executive Inspector General and the Executive Inspector General shall deliver to the Executive Ethics Commission a copy of the summary report and response from the ultimate jurisdictional authority or agency head.~~ If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General, represented by the Attorney General, may file with the Executive Ethics Commission a petition for leave to file a complaint. The complaint petition shall set forth the alleged violation and the grounds that exist to support the complaint petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(c-5) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), if the Executive Inspector General does not believe that a complaint should be filed, the Executive Inspector General shall deliver to the Executive Ethics Commission a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report and response from the ultimate jurisdictional authority or agency head. An Inspector General may also submit a redacted version of the summary report and response from the ultimate jurisdictional authority if the Inspector General believes either contains information that, in the opinion of the Inspector General, should be redacted prior to releasing the report, may interfere with an ongoing investigation, or identifies an informant or complainant.

(c-10) If, after reviewing the documents, the Commission believes that further investigation is warranted, the Commission may request that the Executive Inspector General provide additional information or conduct further investigation. The Commission may also appoint a Special Executive Inspector General to investigate or refer the summary report and response from the ultimate jurisdictional authority to the Attorney General for further investigation or review. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission. If, after review, the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Attorney General may file a complaint with the Executive Ethics Commission. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Executive Ethics Commission and the appropriate Executive Inspector General.

(d) A copy of the ~~complaint filed with the Executive Ethics Commission~~ petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the ~~petition for leave to file a complaint~~ within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, at least 30 days after the complaint is served on all respondents in a closed session to review the sufficiency of the complaint. ~~If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint.~~ The Commission shall issue notice by certified mail, return receipt requested, to the Executive Inspector General, Attorney General, and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall ~~notify the parties and shall~~ include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested,

a notice to the Executive Inspector General, Attorney General, and all respondents ~~the parties~~ of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Executive Ethics Commission, the Commission shall (i) dismiss the complaint, ~~or~~ (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority, ~~(iii) or~~ impose an administrative fine upon the respondent, (iv) issue injunctive relief as described in Section 50-10, or (v) impose a combination of (ii) through (iv) or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) Within 30 days after the issuance of a final administrative decision that concludes that a violation occurred, the Executive Ethics Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission. When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-51 new)

Sec. 20-51. Closed investigations. When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. The Inspector General shall provide the Commission with a written statement of the Inspector General's decision to close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant. The Commission also has the discretion to request that the Executive Inspector General conduct further investigation of any matter closed pursuant to this Section, to appoint a Special Executive Inspector General to investigate, or to refer the allegations to the Attorney General for further investigation or review. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission.

(5 ILCS 430/20-52 new)

Sec. 20-52. Release of summary reports.

(a) Within 60 days after receipt of a summary report and response from the ultimate jurisdictional authority or agency head that resulted in a suspension of at least 3 days or termination of employment, the Executive Ethics Commission shall make available to the public the report and response or a redacted version of the report and response. The Executive Ethics Commission may make available to the public any other summary report and response of the ultimate jurisdictional authority or agency head or a redacted version of the report and response.

(b) The Commission shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Commission determines it is appropriate to protect the identity of a person before the report is made public. The Commission may also redact any information it believes should not be made public. Prior to publication, the Commission shall permit the respondents, Inspector General, and Attorney General to review documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report.

(c) The Commission may withhold publication of the report or response if the Executive Inspector General or Attorney General certifies that releasing the report to the public will interfere with an ongoing investigation.

(5 ILCS 430/20-55)

Sec. 20-55. Decisions; recommendations.

(a) All decisions of the Executive Ethics Commission must include a description of the alleged

misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the appropriate Executive Inspector General. The Executive Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Executive Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Executive Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Executive Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Executive Ethics Commission and the appropriate Executive Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(c) Disciplinary action under this Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of those Acts.

(d) Any hearing to contest disciplinary action for a violation of this Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority shall be conducted by the Executive Ethics Commission and not under any of those Acts.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-60)

Sec. 20-60. Appeals. A decision of the Executive Ethics Commission to impose a fine or injunctive relief is subject to judicial review under the Administrative Review Law. All other decisions by the Executive Ethics Commission are final and not subject to review either administratively or judicially.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-65)

Sec. 20-65. Reporting of investigations ~~Investigations not concluded within 6 months.~~

(a) Each Executive Inspector General shall file a quarterly activity report with the Executive Ethics Commission that reflects investigative activity during the previous quarter. The Executive Ethics Commission shall establish the reporting dates. The activity report shall include at least the following:

(1) The number of investigations opened during the preceding quarter, the affected offices or agencies, and the unique tracking numbers for new investigations.

(2) The number of investigations closed during the preceding quarter, the affected offices or agencies, and the unique tracking numbers for closed investigations.

(3) The status of each on-going investigation that remained open at the end of the quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the investigation.

(b) If any investigation is not concluded within 6 months after its initiation, the appropriate Executive Inspector General shall file a 6-month report with ~~notify~~ the Executive Ethics Commission by the fifteenth day of the month following it being open for 6 months. The 6-month report shall disclose: ~~and~~ ~~appropriate~~ ultimate jurisdictional authority of the general

(1) The general nature of the allegation giving rise to the investigation, the title or job duties of the subjects of the investigation, and the investigation's unique tracking number.

(2) The date of the last alleged violation of this Act or other State law giving rise to the investigation.

(3) Whether the Executive Inspector General has found credible the allegations of criminal conduct.

(4) Whether the allegation has been referred to an appropriate law enforcement agency and the identity of the law enforcement agency to which those allegations were referred.

(5) If an allegation has not been referred to an appropriate law enforcement agency, ~~and~~ the reasons for the failure to complete the investigation within 6 months, a summary of the investigative steps taken, additional investigative steps contemplated at the time of the report, and an estimate of additional time necessary to complete the investigation.

(6) Any other information deemed necessary by the Executive Ethics Commission in determining

whether to appoint a Special Inspector General.

(c) If an Executive Inspector General has referred an allegation to an appropriate law enforcement agency and continues to investigate the matter, the future reporting requirements of this Section are suspended.

(d) Reports filed under this Section are exempt from the Freedom of Information Act.  
(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-70)

Sec. 20-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General, including any inspector general serving in any State agency under the jurisdiction of that Executive Inspector General, to cooperate with the Executive Inspector General and the Attorney General in any investigation undertaken pursuant to this Act. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements. Failure to cooperate with an investigation of the Executive Inspector General or the Attorney General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-80)

Sec. 20-80. Referrals of investigations. If an Executive Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Executive Ethics Commission, that Executive Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission, or other appropriate body. If an Executive Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Executive Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority. If an Executive Inspector General determines that any alleged misconduct resulted in the loss of public funds in an amount of \$5,000 or greater, the Executive Inspector General shall refer the allegations regarding that misconduct to the Attorney General and any other appropriate law enforcement authority.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-85)

Sec. 20-85. ~~Monthly~~ Quarterly reports by Executive Inspector General. Each Executive Inspector General shall submit ~~monthly~~ quarterly reports to the appropriate executive branch constitutional officer ~~and the Executive Ethics Commission~~, on dates determined by the executive branch constitutional officer ~~Executive Ethics Commission~~, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of complaints forwarded to the Attorney General since the date of the last report; ~~and~~

(6) the number of actions filed with the Executive Ethics Commission since the date of the last report and the number of actions pending before the Executive Ethics Commission as of the reporting date; and

- (7) the number of allegations referred to any law enforcement agency.

The monthly report shall be available on the websites of the Executive Inspector General and the constitutional officer.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-90)

Sec. 20-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of ~~Section 20-52~~ ~~Section 20-50(e)~~, commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General, ~~the Attorney General, and the employees and agents of the office of the Attorney General~~ shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-95)

Sec. 20-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of this Act. If the Executive Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the ~~response mandatory report~~ from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in ~~Section 8 of~~ the Freedom of Information Act. A summary report released by the Executive Ethics Commission under Section 20-52 is a public record, but information redacted by the Executive Ethics Commission shall not be part of the public record.

(c) Meetings of the Commission ~~under Sections 20-5 and 20-15 of this Act~~ are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than ~~monthly quarterly~~ reports ~~required under Section 20-85~~, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to ~~the appropriate~~ law enforcement authority ~~if the matter is referred pursuant to this Act~~, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission; or (iv) to another Inspector General appointed pursuant to this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/25-5)

Sec. 25-5. Legislative Ethics Commission.

(a) The Legislative Ethics Commission is created.

(b) The Legislative Ethics Commission shall consist of 8 commissioners appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

The terms of the initial commissioners shall commence upon qualification. Each appointing authority shall designate one appointee who shall serve for a 2-year term running through June 30, 2005. Each appointing authority shall designate one appointee who shall serve for a 4-year term running through June 30, 2007. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and may appoint commissioners who are members of the General Assembly as well as commissioners from the general public. A commissioner who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is a relative of the appointing authority, or (iv) is a State officer or employee other than a member of the General Assembly.

(d) The Legislative Ethics Commission shall have jurisdiction over members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services. The jurisdiction of the Commission is limited to matters arising under this Act.

An officer or executive branch State employee serving on a legislative branch board or commission remains subject to the jurisdiction of the Executive Ethics Commission and is not subject to the jurisdiction of the Legislative Ethics Commission.

(e) The Legislative Ethics Commission must meet, either in person or by other technological means, monthly or as often as necessary. At the first meeting of the Legislative Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem

appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive no compensation but may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner, other than a commissioner who is a member of the General Assembly, or employee of the Legislative Ethics Commission may during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or
- (4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Legislative Ethics Commission shall appoint an Executive Director subject to the approval of at least 3 of the 4 legislative leaders. The compensation of the Executive Director shall be as determined by the Commission ~~or by the Compensation Review Board, whichever amount is higher.~~ The Executive Director of the Legislative Ethics Commission may employ, subject to the approval of at least 3 of the 4 legislative leaders, and determine the compensation of staff, as appropriations permit.

(Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

(5 ILCS 430/25-20)

Sec. 25-20. Duties of the Legislative Inspector General. In addition to duties otherwise assigned by law, the Legislative Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. ~~The Legislative Inspector General may receive information through the Office of the Legislative Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Legislative Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously.~~ An investigation

may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Legislative Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Legislative Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas, with the advance approval of the Commission, to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 25-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Legislative Inspector General with the Legislative Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Legislative Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Legislative Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(9) To establish a policy that ensures the appropriate handling and correct recording of all investigations of allegations and to ensure that the policy is accessible via the Internet in order that those seeking to report those allegations are familiar with the process and that the subjects of those allegations are treated fairly.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/25-20a new)

Sec. 25-20a. Attorney General investigatory authority. In addition to investigatory authority otherwise granted by law, the Attorney General shall have the authority to investigate violations of this Act pursuant to Section 25-50 or Section 25-51 of this Act after receipt of notice from the Legislative Ethics Commission or pursuant to Section 5-45. The Attorney General shall have the discretion to determine the appropriate means of investigation as permitted by law, including (i) the request of information relating to an investigation from any person when the Attorney General deems that information necessary in conducting an investigation; and (ii) the issuance of subpoenas to compel the attendance of witnesses for the purposes of sworn testimony and production of documents and other items for inspection and copying and the service of those subpoenas.

Nothing in this Section shall be construed as granting the Attorney General the authority to investigate alleged misconduct pursuant to notice received under Section 5-45, Section 25-50, or Section 25-51 of this Act, if the information contained in the notice indicates that the alleged misconduct was minor in nature. As used in this Section, misconduct that is "minor in nature" means misconduct that was a violation of office, agency, or department policy and not of this Act or any other civil or criminal law.

(5 ILCS 430/25-50)

Sec. 25-50. Investigation reports; ~~complaint procedure.~~

(a) If the Legislative Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate. The appropriate ultimate jurisdictional authority or agency head shall respond to the summary report within 20 days, in writing, to the Legislative Inspector General. The response shall include a description of any corrective or disciplinary action to be imposed.

(b) The summary report of the investigation shall include the following:

- (1) A description of any allegations or other information received by the Legislative Inspector General pertinent to the investigation.
- (2) A description of any alleged misconduct discovered in the course of the investigation.
- (3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.
- (4) Other information the Legislative Inspector General deems relevant to the investigation or resulting recommendations.

(c) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head. Not less than 30 days after delivery of the summary report of an investigation under subsection (a), the Legislative Inspector General shall notify the Commission and the Attorney General if the Legislative Inspector General believes that a complaint should be filed with the Commission. If the Legislative Inspector General desires to file a petition for leave to file a complaint with the Commission, the Legislative Inspector General shall submit the summary report and supporting documents to notify the Commission and the Attorney General. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Legislative Inspector General and the Legislative Inspector General shall deliver to the Legislative Ethics Commission a copy of the summary report and response from the ultimate jurisdictional authority or agency head. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General, represented by the Attorney General, may file with the Legislative Ethics Commission a petition for leave to file a complaint. The complaint petition shall set forth the alleged violation and the grounds that exist to support the complaint petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(c-5) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), if the Legislative Inspector General does not believe that a complaint should be filed, the Legislative Inspector General shall deliver to the Legislative Ethics Commission a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report and response from the ultimate jurisdictional authority or agency head. The Inspector

General may also submit a redacted version of the summary report and response from the ultimate jurisdictional authority if the Inspector General believes either contains information that, in the opinion of the Inspector General, should be redacted prior to releasing the report, may interfere with an ongoing investigation, or identifies an informant or complainant.

(c-10) If, after reviewing the documents, the Commission believes that further investigation is warranted, the Commission may request that the Legislative Inspector General provide additional information or conduct further investigation. The Commission may also refer the summary report and response from the ultimate jurisdictional authority to the Attorney General for further investigation or review. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Legislative Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission. If, after review, the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Attorney General may file a complaint with the Legislative Ethics Commission. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Legislative Ethics Commission and the appropriate Legislative Inspector General.

(d) A copy of the complaint filed with the Legislative Ethics Commission ~~petition~~ must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the ~~petition for leave to file a~~ complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, at least 30 days after the complaint is served on all respondents either in person or by telephone, in a closed session to review the sufficiency of the complaint. ~~If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint.~~ The Commission shall issue notice by certified mail, return receipt requested, to the Legislative Inspector General, the Attorney General, and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall ~~notify the parties and shall~~ include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the Legislative Inspector General, the Attorney General, and all respondents ~~the parties of~~ the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Legislative Ethics Commission, the Commission shall (i) dismiss the complaint, ~~or~~ (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority, ~~(iii) or~~ impose an administrative fine upon the respondent, (iv) issue injunctive relief as described in Section 50-10, or (v) impose a combination of (ii) through (iv) ~~or both~~.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) Within 30 days after the issuance of a final administrative decision that concludes that a violation occurred, the Legislative Ethics Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission. When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/25-51 new)

Sec. 25-51. Closed investigations. When the Legislative Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. The Legislative Inspector General shall provide the Commission with a written statement of the decision

to close the investigation. At the request of the subject of the investigation, the Legislative Inspector General shall provide a written statement to the subject of the investigation of the Inspector General's decision to close the investigation. Closure by the Legislative Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant. The Commission also has the discretion to request that the Legislative Inspector General conduct further investigation of any matter closed pursuant to this Section, or to refer the allegations to the Attorney General for further review or investigation. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission.

(5 ILCS 430/25-52 new)

Sec. 25-52. Release of summary reports.

(a) Within 60 days after receipt of a summary report and response from the ultimate jurisdictional authority or agency head that resulted in a suspension of at least 3 days or termination of employment, the Legislative Ethics Commission shall make available to the public the report and response or a redacted version of the report and response. The Legislative Ethics Commission may make available to the public any other summary report and response of the ultimate jurisdictional authority or agency head or a redacted version of the report and response.

(b) The Legislative Ethics Commission shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Commission determines it is appropriate to protect the identity of a person before publication. The Commission may also redact any information it believes should not be made public. Prior to publication, the Commission shall permit the respondents, Legislative Inspector General, and Attorney General to review documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report.

(c) The Legislative Ethics Commission may withhold publication of the report or response if the Legislative Inspector General or Attorney General certifies that publication will interfere with an ongoing investigation.

(5 ILCS 430/25-65)

Sec. 25-65. Reporting of investigations ~~Investigations not concluded within 6 months.~~

(a) The Legislative Inspector General shall file a quarterly activity report with the Legislative Ethics Commission that reflects investigative activity during the previous quarter. The Legislative Ethics Commission shall establish the reporting dates. The activity report shall include at least the following:

(1) A summary of any investigation opened during the preceding quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the allegation or allegations.

(2) A summary of any investigation closed during the preceding quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the allegations or allegations.

(3) The status of an ongoing investigation that remained open at the end of the quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the investigation.

(b) If any investigation is not concluded within 6 months after its initiation, the Legislative Inspector General shall file a 6-month report with ~~notify~~ the Legislative Ethics Commission no later than 10 days after the 6th month. The 6-month report shall disclose: ~~and appropriate ultimate jurisdictional authority of the~~

(1) The general nature of the allegation or information giving rise to the investigation, the title or job duties of the subjects of the investigation, and the investigation's unique tracking number.

(2) The date of the last alleged violation of this Act or other State law giving rise to the investigation.

(3) Whether the Legislative Inspector General has found credible the allegations of criminal conduct.

(4) Whether the allegation has been referred to an appropriate law enforcement agency and the identity of the law enforcement agency to which those allegations were referred.

(5) If an allegation has not been referred to an appropriate law enforcement agency, ~~and~~ the reasons for the failure to complete the investigation within 6 months, a summary of the investigative steps taken, additional investigative steps contemplated at the time of the report, and an estimate of additional time necessary to complete the investigation.

(6) Any other information deemed necessary by the Legislative Ethics Commission in determining whether to appoint a Special Inspector General.

(c) If the Legislative Inspector General has referred an allegation to an appropriate law enforcement

agency and continues to investigate the matter, the future reporting requirements of this Section are suspended.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/25-95)

Sec. 25-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(a-5) Requests from ethics officers, members, and State employees to the Office of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader for guidance on matters involving the interpretation or application of this Act or rules promulgated under this Act are exempt from the provisions of the Freedom of Information Act. Guidance provided to an ethics officer, member, or State employee at the request of an ethics officer, member, or State employee by the Office of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader on matters involving the interpretation or application of this Act or rules promulgated under this Act is exempt from the provisions of the Freedom of Information Act.

(b) Summary investigation reports released by the Legislative Ethics Commission as provided in Section 25-52 are public records. Otherwise, any ~~Any~~ allegations and related documents submitted to the Legislative Inspector General and any pleadings and related documents brought before the Legislative Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Legislative Ethics Commission does not make a finding of a violation of this Act. If the Legislative Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission ~~under Sections 25-5 and 25-15 of this Act~~ are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of the Legislative Inspector General, other than monthly ~~quarterly~~ reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, or (iii) to the Legislative Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

(5 ILCS 430/35-5)

Sec. 35-5. Appointment of Inspectors General. Nothing in this Act precludes the appointment by the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer of any inspector general required or permitted by law. Nothing in this Act precludes the Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer from appointing an existing inspector general under his or her jurisdiction to serve simultaneously as an Executive Inspector General. This Act shall be read consistently with all existing State statutes that create inspectors general under the jurisdiction of an executive branch constitutional officer.

This Act prohibits the appointment or employment by an officer, member, State employee, or State agency of any person to serve or act with respect to one or more State agencies as an Inspector General under this Act except as authorized and required by Articles 20, 25, and 30 of this Act or Section 14 of the Secretary of State Act. No officer, member, State employee, or State agency may appoint or employ an inspector general for any purpose except as authorized or required by law.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/50-5)

Sec. 50-5. Penalties.

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.

(a-1) An ethics commission may levy an administrative fine for a violation of Section 5-45 of this Act of up to 3 times the total annual compensation that would have been obtained in violation of Section 5-45.

(b) A person who intentionally violates any provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business offense subject to a fine of at least \$1,001 and up to \$5,000.

(c) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least \$1,001 and up to \$5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provision of this Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(e) An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation.

(f) In addition to any other penalty that may apply, whether criminal or civil, a State employee who intentionally violates any provision of Section ~~5-5~~, 5-15, 5-20, 5-30, 5-35, ~~5-45~~ ~~5-40~~, or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(5 ILCS 430/50-10 new)

Sec. 50-10. Injunctive relief.

(a) For a violation of any Section of this Act, an ethics commission may issue appropriate injunctive relief up to and including discharge of a State employee.

(b) Any injunctive relief issued pursuant to this Section must comport with the requirements of Section 20-40.

(5 ILCS 430/20-40 rep.)

Section 15. The State Officials and Employees Ethics Act is amended by repealing Section 20-40.

Section 20. The Secretary of State Act is amended by changing Section 14 as follows:

(15 ILCS 305/14)

Sec. 14. Inspector General.

(a) The Secretary of State must, with the advice and consent of the Senate, appoint an Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature in the Office of the Secretary of State. The Inspector General shall serve a 5-year term. If no successor is appointed and qualified upon the expiration of the Inspector General's term, the Office of Inspector General is deemed vacant and the powers and duties under this Section may be exercised only by an appointed and qualified interim Inspector General until a successor Inspector General is appointed and qualified. If the General Assembly is not in session when a vacancy in the Office of Inspector General occurs, the Secretary of State may appoint an interim Inspector General whose term shall expire 2 weeks after the next regularly scheduled session day of the Senate.

(b) The Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has either (A) 5 or more years of service with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) 5 or more years of service as a federal, State, or local prosecutor; or (C) 5 or more years of service as a senior manager or executive of a federal, State, or local agency.

(c) The Inspector General may review, coordinate, and recommend methods and procedures to increase the integrity of the Office of the Secretary of State. The duties of the Inspector General shall supplement and not supplant the duties of the Chief Auditor for the Secretary of State's Office or any other Inspector General that may be authorized by law. The Inspector General must report directly to the Secretary of State.

(d) In addition to the authority otherwise provided by this Section, but only when investigating the Office of the Secretary of State, its employees, or their actions for fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature, the Inspector General is authorized:

(1) To have access to all records, reports, audits, reviews, documents, papers,

recommendations, or other materials available that relate to programs and operations with respect to which the Inspector General has responsibilities under this Section.

(2) To make any investigations and reports relating to the administration of the programs and operations of the Office of the Secretary of State that are, in the ~~judgment~~ ~~judgement~~ of the Inspector General, necessary or desirable.

(3) To request any information or assistance that may be necessary for carrying out the

duties and responsibilities provided by this Section from any local, State, or federal governmental agency or unit thereof.

(4) To require by subpoena the appearance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Section, with the exception of subsection (c) and with the exception of records of a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State, including, but not limited to, records of representation of employees and the negotiation of collective bargaining agreements. A subpoena may be issued under this paragraph (4) only by the Inspector General and not by members of the Inspector General's staff. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction, unless (i) the testimony, documents, or other items are covered by the attorney-client privilege or any other privilege or right recognized by law or (ii) the testimony, documents, or other items concern the representation of employees and the negotiation of collective bargaining agreements by a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State. Nothing in this Section limits a person's right to protection against self-incrimination under the Fifth Amendment of the United States Constitution or Article I, Section 10, of the Constitution of the State of Illinois.

(5) To have direct and prompt access to the Secretary of State for any purpose pertaining to the performance of functions and responsibilities under this Section.

(d-5) In addition to the authority otherwise provided by this Section, the Secretary of State Inspector General shall have jurisdiction to investigate complaints and allegations of wrongdoing by any person or entity related to the Lobbyist Registration Act. When investigating those complaints and allegations, the Inspector General is authorized:

(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available that relate to programs and operations with respect to which the Inspector General has responsibilities under this Section.

(2) To request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, State, or federal governmental agency or unit thereof.

(3) To require by subpoena the appearance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Section. A subpoena may be issued under this paragraph (3) only by the Inspector General and not by members of the Inspector General's staff. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction, unless the testimony, documents, or other items are covered by the attorney-client privilege or any other privilege or right recognized by law. Nothing in this Section limits a person's right to protection against self-incrimination under the Fifth Amendment of the United States Constitution or Section 10 of Article I of the Constitution of the State of Illinois.

(4) To have direct and prompt access to the Secretary of State for any purpose pertaining to the performance of functions and responsibilities under this Section.

(e) The Inspector General may receive and investigate complaints or information from an employee of the Secretary of State concerning the possible existence of an activity constituting a violation of law, rules, or regulations; mismanagement; abuse of authority; or substantial and specific danger to the public health and safety. Any ~~person~~ ~~employee~~ who knowingly files a false complaint or files a complaint with reckless disregard for the truth or the falsity of the facts underlying the complaint may be subject to discipline as set forth in the rules of the Department of Personnel of the Secretary of State.

The Inspector General may not, after receipt of a complaint or information ~~from an employee~~, disclose the identity of the ~~source~~ ~~employee~~ without the consent of the ~~source~~ ~~employee~~, unless the Inspector General determines that disclosure of the identity is reasonable and necessary for the furtherance of the investigation.

Any employee who has the authority to recommend or approve any personnel action or to direct others to recommend or approve any personnel action may not, with respect to that authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with

the knowledge that it was false or with willful disregard for its truth or falsity.

(f) The Inspector General must adopt rules, in accordance with the provisions of the Illinois Administrative Procedure Act, establishing minimum requirements for initiating, conducting, and completing investigations. The rules must establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but is not limited to, site visits, telephone contacts, personal interviews, or requests for written responses. The rules must also clarify how the Office of the Inspector General shall interact with other local, State, and federal law enforcement investigations.

Any employee of the Secretary of State subject to investigation or inquiry by the Inspector General or any agent or representative of the Inspector General concerning misconduct that is criminal in nature shall have the right to be notified of the right to remain silent during the investigation or inquiry and the right to be represented in the investigation or inquiry by an attorney or a representative of a labor organization that is the exclusive collective bargaining representative of employees of the Secretary of State. Any investigation or inquiry by the Inspector General or any agent or representative of the Inspector General must be conducted with an awareness of the provisions of a collective bargaining agreement that applies to the employees of the Secretary of State and with an awareness of the rights of the employees as set forth in State and federal law and applicable judicial decisions. Any recommendations for discipline or any action taken against any employee by the Inspector General or any representative or agent of the Inspector General must comply with the provisions of the collective bargaining agreement that applies to the employee.

(g) On or before January 1 of each year, the Inspector General shall report to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the types of investigations and the activities undertaken by the Office of the Inspector General during the previous calendar year.

(Source: P.A. 93-559, eff. 8-20-03.)

Section 25. The Secretary of State Merit Employment Code is amended by adding Section 17.5 as follows:

(15 ILCS 310/17.5 new)

Sec. 17.5. State Officials and Employees Ethics Act.

(a) Disciplinary action under the State Officials and Employees Ethics Act against a person subject to this Act is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of this Act.

(b) Any hearing to contest disciplinary action against a person subject to this Act pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority, as defined in the State Officials and Employees Ethics Act, shall be conducted by the Executive Ethics Commission and not under this Act, at the request of that person.

Section 30. The Comptroller Merit Employment Code is amended by adding Section 17.5 as follows:

(15 ILCS 410/17.5 new)

Sec. 17.5. State Officials and Employees Ethics Act.

(a) Disciplinary action under the State Officials and Employees Ethics Act against a person subject to this Act is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of this Act.

(b) Any hearing to contest disciplinary action against a person subject to this Act pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority, as defined in the State Officials and Employees Ethics Act, shall be conducted by the Executive Ethics Commission and not under this Act, at the request of that person.

Section 35. The State Treasurer Employment Code is amended by adding Section 14.5 as follows:

(15 ILCS 510/14.5 new)

Sec. 14.5. State Officials and Employees Ethics Act.

(a) Disciplinary action under the State Officials and Employees Ethics Act against a person subject to this Act is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of this Act.

(b) Any hearing to contest disciplinary action against a person subject to this Act pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority, as defined in the State Officials and Employees Ethics Act, shall be conducted by the Executive Ethics Commission and not under this Act, at the request of that person.

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Section 40. The Personnel Code is amended by adding Section 20 as follows:

(20 ILCS 415/20 new)

Sec. 20. State Officials and Employees Ethics Act.

(a) Disciplinary action under the State Officials and Employees Ethics Act against a person subject to this Act is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of this Act.

(b) Any hearing to contest disciplinary action against a person subject to this Act pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority, as defined in the State Officials and Employees Ethics Act, shall be conducted by the Executive Ethics Commission and not under this Act.

Section 45. The Children and Family Services Act is amended by changing Section 35.5 as follows:

(20 ILCS 505/35.5)

Sec. 35.5. Inspector General.

(a) The Governor shall appoint, and the Senate shall confirm, an Inspector General who shall have the authority to conduct investigations into allegations of or incidents of possible misconduct, misfeasance, malfeasance, or violations of rules, procedures, or laws by any employee, foster parent, service provider, or contractor of the Department of Children and Family Services, except for allegations of violations of the State Officials and Employees Ethics Act which shall be referred to the Office of the Governor's Executive Inspector General for investigation. The Inspector General shall make recommendations to the Director of Children and Family Services concerning sanctions or disciplinary actions against Department employees or providers of service under contract to the Department. The Director of Children and Family Services shall provide the Inspector General with an implementation report on the status of any corrective actions taken on recommendations under review and shall continue sending updated reports until the corrective action is completed. The Director shall provide a written response to the Inspector General indicating the status of any sanctions or disciplinary actions against employees or providers of service involving any investigation subject to review. In any case, information included in the reports to the Inspector General and Department responses shall be subject to the public disclosure requirements of the Abused and Neglected Child Reporting Act. Any investigation conducted by the Inspector General shall be independent and separate from the investigation mandated by the Abused and Neglected Child Reporting Act. The Inspector General shall be appointed for a term of 4 years. The Inspector General shall function independently within the Department of Children and Family Services with respect to the operations of the Office of Inspector General, including the performance of investigations and issuance of findings and recommendations, and shall report to the Director of Children and Family Services and the Governor and perform other duties the Director may designate. The Inspector General shall adopt rules as necessary to carry out the functions, purposes, and duties of the office of Inspector General in the Department of Children and Family Services, in accordance with the Illinois Administrative Procedure Act and any other applicable law.

(b) The Inspector General shall have access to all information and personnel necessary to perform the duties of the office. To minimize duplication of efforts, and to assure consistency and conformance with the requirements and procedures established in the B.H. v. Suter consent decree and to share resources when appropriate, the Inspector General shall coordinate his or her activities with the Bureau of Quality Assurance within the Department.

(c) The Inspector General shall be the primary liaison between the Department and the Department of State Police with regard to investigations conducted under the Inspector General's auspices. If the Inspector General determines that a possible criminal act has been committed, or that special expertise is required in the investigation, he or she shall immediately notify the Department of State Police. All investigations conducted by the Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

(d) The Inspector General may recommend to the Department of Children and Family Services, the Department of Public Health, or any other appropriate agency, sanctions to be imposed against service providers under the jurisdiction of or under contract with the Department for the protection of children in the custody or under the guardianship of the Department who received services from those providers. The Inspector General may seek the assistance of the Attorney General or any of the several State's Attorneys in imposing sanctions.

(e) The Inspector General shall at all times be granted access to any foster home, facility, or program operated for or licensed or funded by the Department.

(f) Nothing in this Section shall limit investigations by the Department of Children and Family

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Services that may otherwise be required by law or that may be necessary in that Department's capacity as the central administrative authority for child welfare.

(g) The Inspector General shall have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Act. The power to subpoena or to compel the production of books and papers, however, shall not extend to the person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Act. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to an investigation under this Act, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Act is guilty of a Class A misdemeanor.

(h) The Inspector General shall provide to the General Assembly and the Governor, no later than January 1 of each year, a summary of reports and investigations made under this Section for the prior fiscal year. The summaries shall detail the imposition of sanctions and the final disposition of those recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries also shall include detailed recommended administrative actions and matters for consideration by the General Assembly.

(Source: P.A. 95-527, eff. 6-1-08.)

Section 50. The Department of Human Services Act is amended by changing Section 1-17 as follows:  
(20 ILCS 1305/1-17)

Sec. 1-17. Inspector General.

(a) Appointment; powers and duties. The Governor shall appoint, and the Senate shall confirm, an Inspector General. The Inspector General shall be appointed for a term of 4 years and shall function within the Department of Human Services and report to the Secretary of Human Services and the Governor. The Inspector General shall function independently within the Department of Human Services with respect to the operations of the office, including the performance of investigations and issuance of findings and recommendations. The appropriation for the Office of Inspector General shall be separate from the overall appropriation for the Department of Human Services. The Inspector General shall investigate reports of suspected abuse or neglect (as those terms are defined by the Department of Human Services) of patients or residents in any mental health or developmental disabilities facility operated by the Department of Human Services and shall have authority to investigate and take immediate action on reports of abuse or neglect of recipients, whether patients or residents, in any mental health or developmental disabilities facility or program that is licensed or certified by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or that is funded by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) and is not licensed or certified by any agency of the State. The Inspector General shall also have the authority to investigate alleged or suspected cases of abuse, neglect, and exploitation of adults with disabilities living in domestic settings in the community pursuant to the Abuse of Adults with Disabilities Intervention Act (20 ILCS 2435/). At the specific, written request of an agency of the State other than the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities), the Inspector General may cooperate in investigating reports of abuse and neglect of persons with mental illness or persons with developmental disabilities. The Inspector General shall have no supervision over or involvement in routine, programmatic, licensure, or certification operations of the Department of Human Services or any of its funded agencies. The Inspector General shall have no authority to investigate alleged violations of the State Officials and Employees Ethics Act. Allegations of misconduct under the State Officials and Employees Ethics Act shall be referred to the Office of the Governor's Executive Inspector General for investigation.

The Inspector General shall promulgate rules establishing minimum requirements for reporting allegations of abuse and neglect and initiating, conducting, and completing investigations. The promulgated rules shall clearly set forth that in instances where 2 or more State agencies could investigate an allegation of abuse or neglect, the Inspector General shall not conduct an investigation that is redundant to an investigation conducted by another State agency. The rules shall establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but need not be limited to, site visits, telephone contacts, or requests for written responses from agencies. The rules shall also clarify how the Office of the Inspector General shall interact with the licensing unit of the Department of Human Services in investigations of allegations of abuse or neglect. Any allegations or investigations of reports made pursuant to this Act shall remain confidential until a final report is completed. The resident or patient who allegedly was abused or neglected and his or her

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legal guardian shall be informed by the facility or agency of the report of alleged abuse or neglect. Final reports regarding unsubstantiated or unfounded allegations shall remain confidential, except that final reports may be disclosed pursuant to Section 6 of the Abused and Neglected Long Term Care Facility Residents Reporting Act.

For purposes of this Section, "required reporter" means a person who suspects, witnesses, or is informed of an allegation of abuse and neglect at a State-operated facility or a community agency and who is either: (i) a person employed at a State-operated facility or a community agency on or off site who is providing or monitoring services to an individual or individuals or is providing services to the State-operated facility or the community agency; or (ii) any person or contractual agent of the Department of Human Services involved in providing, monitoring, or administering mental health or developmental services, including, but not limited to, payroll personnel, contractors, subcontractors, and volunteers. A required reporter shall report the allegation of abuse or neglect, or cause a report to be made, to the Office of the Inspector General (OIG) Hotline no later than 4 hours after the initial discovery of the incident of alleged abuse or neglect. A required reporter as defined in this paragraph who willfully fails to comply with the reporting requirement is guilty of a Class A misdemeanor.

For purposes of this Section, "State-operated facility" means a mental health facility or a developmental disability facility as defined in Sections 1-114 and 1-107 of the Mental Health and Developmental Disabilities Code.

For purposes of this Section, "community agency" or "agency" means any community entity or program providing mental health or developmental disabilities services that is licensed, certified, or funded by the Department of Human Services and is not licensed or certified by an other human services agency of the State (for example, the Department of Public Health, the Department of Children and Family Services, or the Department of Healthcare and Family Services).

When the Office of the Inspector General has substantiated a case of abuse or neglect, the Inspector General shall include in the final report any mitigating or aggravating circumstances that were identified during the investigation. Upon determination that a report of neglect is substantiated, the Inspector General shall then determine whether such neglect rises to the level of egregious neglect.

(b) Department of State Police. The Inspector General shall, within 24 hours after determining that a reported allegation of suspected abuse or neglect indicates that any possible criminal act has been committed or that special expertise is required in the investigation, immediately notify the Department of State Police or the appropriate law enforcement entity. The Department of State Police shall investigate any report from a State-operated facility indicating a possible murder, rape, or other felony. All investigations conducted by the Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

(b-5) Preliminary report of investigation; facility or agency response. The Inspector General shall make a determination to accept or reject a preliminary report of the investigation of alleged abuse or neglect based on established investigative procedures. Notice of the Inspector General's determination must be given to the person who claims to be the victim of the abuse or neglect, to the person or persons alleged to have been responsible for abuse or neglect, and to the facility or agency. The facility or agency or the person or persons alleged to have been responsible for the abuse or neglect and the person who claims to be the victim of the abuse or neglect may request clarification or reconsideration based on additional information. For cases where the allegation of abuse or neglect is substantiated, the Inspector General shall require the facility or agency to submit a written response. The written response from a facility or agency shall address in a concise and reasoned manner the actions that the agency or facility will take or has taken to protect the resident or patient from abuse or neglect, prevent reoccurrences, and eliminate problems identified and shall include implementation and completion dates for all such action.

(c) Inspector General's report; facility's or agency's implementation reports. The Inspector General shall, within 10 calendar days after the transmittal date of a completed investigation where abuse or neglect is substantiated or administrative action is recommended, provide a complete report on the case to the Secretary of Human Services and to the agency in which the abuse or neglect is alleged to have happened. The complete report shall include a written response from the agency or facility operated by the State to the Inspector General that addresses in a concise and reasoned manner the actions that the agency or facility will take or has taken to protect the resident or patient from abuse or neglect, prevent reoccurrences, and eliminate problems identified and shall include implementation and completion dates for all such action. The Secretary of Human Services shall accept or reject the response and establish how the Department will determine whether the facility or program followed the approved response. The Secretary may require Department personnel to visit the facility or agency for training, technical assistance, programmatic, licensure, or certification purposes. Administrative action, including sanctions, may be applied should the Secretary reject the response or should the facility or agency fail to

follow the approved response. Within 30 days after the Secretary has approved a response, the facility or agency making the response shall provide an implementation report to the Inspector General on the status of the corrective action implemented. Within 60 days after the Secretary has approved the response, the facility or agency shall send notice of the completion of the corrective action or shall send an updated implementation report. The facility or agency shall continue sending updated implementation reports every 60 days until the facility or agency sends a notice of the completion of the corrective action. The Inspector General shall review any implementation plan that takes more than 120 days. The Inspector General shall monitor compliance through a random review of completed corrective actions. This monitoring may include, but need not be limited to, site visits, telephone contacts, or requests for written documentation from the facility or agency to determine whether the facility or agency is in compliance with the approved response. The facility or agency shall inform the resident or patient and the legal guardian whether the reported allegation was substantiated, unsubstantiated, or unfounded. There shall be an appeals process for any person or agency that is subject to any action based on a recommendation or recommendations.

(d) Sanctions. The Inspector General may recommend to the Departments of Public Health and Human Services sanctions to be imposed against mental health and developmental disabilities facilities under the jurisdiction of the Department of Human Services for the protection of residents, including appointment of on-site monitors or receivers, transfer or relocation of residents, and closure of units. The Inspector General may seek the assistance of the Attorney General or any of the several State's Attorneys in imposing such sanctions. Whenever the Inspector General issues any recommendations to the Secretary of Human Services, the Secretary shall provide a written response.

(e) Training programs. The Inspector General shall establish and conduct periodic training programs for Department of Human Services employees and community agency employees concerning the prevention and reporting of neglect and abuse.

(f) Access to facilities. The Inspector General shall at all times be granted access to any mental health or developmental disabilities facility operated by the Department of Human Services, shall establish and conduct unannounced site visits to those facilities at least once annually, and shall be granted access, for the purpose of investigating a report of abuse or neglect, to the records of the Department of Human Services and to any facility or program funded by the Department of Human Services that is subject under the provisions of this Section to investigation by the Inspector General for a report of abuse or neglect.

(g) Other investigations. Nothing in this Section shall limit investigations by the Department of Human Services that may otherwise be required by law or that may be necessary in that Department's capacity as the central administrative authority responsible for the operation of State mental health and developmental disability facilities.

(g-5) Health care worker registry. After notice and an opportunity for a hearing that is separate and distinct from the Office of the Inspector General's appeals process as implemented under subsection (c) of this Section, the Inspector General shall report to the Department of Public Health's health care worker registry under Section 3-206.01 of the Nursing Home Care Act the identity of individuals against whom there has been a substantiated finding of physical or sexual abuse or egregious neglect of a service recipient.

Nothing in this subsection shall diminish or impair the rights of a person who is a member of a collective bargaining unit pursuant to the Illinois Public Labor Relations Act or pursuant to any federal labor statute. An individual who is a member of a collective bargaining unit as described above shall not be reported to the Department of Public Health's health care worker registry until the exhaustion of that individual's grievance and arbitration rights, or until 3 months after the initiation of the grievance process, whichever occurs first, provided that the Department of Human Services' hearing under this subsection regarding the reporting of an individual to the Department of Public Health's health care worker registry has concluded. Notwithstanding anything hereinafter or previously provided, if an action taken by an employer against an individual as a result of the circumstances that led to a finding of physical or sexual abuse or egregious neglect is later overturned under a grievance or arbitration procedure provided for in Section 8 of the Illinois Public Labor Relations Act or under a collective bargaining agreement, the report must be removed from the registry.

The Department of Human Services shall promulgate or amend rules as necessary or appropriate to establish procedures for reporting to the registry, including the definition of egregious neglect, procedures for notice to the individual and victim, appeal and hearing procedures, and petition for removal of the report from the registry. The portion of the rules pertaining to hearings shall provide that, at the hearing, both parties may present written and oral evidence. The Department shall be required to establish by a preponderance of the evidence that the Office of the Inspector General's finding of

physical or sexual abuse or egregious neglect warrants reporting to the Department of Public Health's health care worker registry under Section 3-206.01 of the Nursing Home Care Act.

Notice to the individual shall include a clear and concise statement of the grounds on which the report to the registry is based and notice of the opportunity for a hearing to contest the report. The Department of Human Services shall provide the notice by certified mail to the last known address of the individual. The notice shall give the individual an opportunity to contest the report in a hearing before the Department of Human Services or to submit a written response to the findings instead of requesting a hearing. If the individual does not request a hearing or if after notice and a hearing the Department of Human Services finds that the report is valid, the finding shall be included as part of the registry, as well as a brief statement from the reported individual if he or she chooses to make a statement. The Department of Public Health shall make available to the public information reported to the registry. In a case of inquiries concerning an individual listed in the registry, any information disclosed concerning a finding of abuse or neglect shall also include disclosure of the individual's brief statement in the registry relating to the reported finding or include a clear and accurate summary of the statement.

At any time after the report of the registry, an individual may petition the Department of Human Services for removal from the registry of the finding against him or her. Upon receipt of such a petition, the Department of Human Services shall conduct an investigation and hearing on the petition. Upon completion of the investigation and hearing, the Department of Human Services shall report the removal of the finding to the registry unless the Department of Human Services determines that removal is not in the public interest.

(h) Quality Care Board. There is created, within the Office of the Inspector General, a Quality Care Board to be composed of 7 members appointed by the Governor with the advice and consent of the Senate. One of the members shall be designated as chairman by the Governor. Of the initial appointments made by the Governor, 4 Board members shall each be appointed for a term of 4 years and 3 members shall each be appointed for a term of 2 years. Upon the expiration of each member's term, a successor shall be appointed for a term of 4 years. In the case of a vacancy in the office of any member, the Governor shall appoint a successor for the remainder of the unexpired term.

Members appointed by the Governor shall be qualified by professional knowledge or experience in the area of law, investigatory techniques, or in the area of care of the mentally ill or developmentally disabled. Two members appointed by the Governor shall be persons with a disability or a parent of a person with a disability. Members shall serve without compensation, but shall be reimbursed for expenses incurred in connection with the performance of their duties as members.

The Board shall meet quarterly, and may hold other meetings on the call of the chairman. Four members shall constitute a quorum. The Board may adopt rules and regulations it deems necessary to govern its own procedures.

(i) Scope and function of the Quality Care Board. The Board shall monitor and oversee the operations, policies, and procedures of the Inspector General to assure the prompt and thorough investigation of allegations of neglect and abuse. In fulfilling these responsibilities, the Board may do the following:

- (1) Provide independent, expert consultation to the Inspector General on policies and protocols for investigations of alleged neglect and abuse.
- (2) Review existing regulations relating to the operation of facilities under the control of the Department of Human Services.
- (3) Advise the Inspector General as to the content of training activities authorized under this Section.

(4) Recommend policies concerning methods for improving the intergovernmental relationships between the Office of the Inspector General and other State or federal agencies.

(j) Investigators. The Inspector General shall establish a comprehensive program to ensure that every person employed or newly hired to conduct investigations shall receive training on an on-going basis concerning investigative techniques, communication skills, and the appropriate means of contact with persons admitted or committed to the mental health or developmental disabilities facilities under the jurisdiction of the Department of Human Services.

(k) Subpoenas; testimony; penalty. The Inspector General shall have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Act, provided that the power to subpoena or to compel the production of books and papers shall not extend to the person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Act. Mental health records of patients shall be confidential as provided under the Mental Health and Developmental Disabilities Confidentiality Act. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent

to an investigation under this Act, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Act is guilty of a Class A misdemeanor.

(l) Annual report. The Inspector General shall provide to the General Assembly and the Governor, no later than January 1 of each year, a summary of reports and investigations made under this Act for the prior fiscal year with respect to residents of institutions under the jurisdiction of the Department of Human Services. The report shall detail the imposition of sanctions and the final disposition of those recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The report shall also include a trend analysis of the number of reported allegations and their disposition, for each facility and Department-wide, for the most recent 3-year time period and a statement, for each facility, of the staffing-to-patient ratios. The ratios shall include only the number of direct care staff. The report shall also include detailed recommended administrative actions and matters for consideration by the General Assembly.

(m) Program audit. The Auditor General shall conduct a biennial program audit of the Office of the Inspector General in relation to the Inspector General's compliance with this Act. The audit shall specifically include the Inspector General's effectiveness in investigating reports of alleged neglect or abuse of residents in any facility operated by the Department of Human Services and in making recommendations for sanctions to the Departments of Human Services and Public Health. The Auditor General shall conduct the program audit according to the provisions of the Illinois State Auditing Act and shall report its findings to the General Assembly no later than January 1 of each odd-numbered year.

(Source: P.A. 95-545, eff. 8-28-07.)

Section 55. The Governor's Office of Management and Budget Act is amended by changing Section 1 and by adding Sections 7.1 and 7.2 as follows:

(20 ILCS 3005/1) (from Ch. 127, par. 411)

Sec. 1. Definitions.

"Capital expenditure" means money spent for replacing, remodeling, expanding, or acquiring facilities, buildings or land owned directly by the State through any State department, authority, public corporation of the State, State college or university, or any other public agency created by the State, but not units of local government or school districts.

"Director" means the Director of the Governor's Office of Management and Budget.

"Office" means the Governor's Office of Management and Budget.

"State Agency," whether used in the singular or plural, means all Departments, Officers, Commissions, Boards, Institutions and bodies, politic and corporate of the State, including the Offices of Clerk of the Supreme Court and Clerks of the Appellate Courts; except it shall not mean the several Courts of the State, nor the Legislature, its Committees or Commissions, nor the Constitutionally elected State Officers, nor the Executive Ethics Commission, nor the Offices of Executive Inspectors General.

(Source: P.A. 93-25, eff. 6-20-03.)

(20 ILCS 3005/7.1 new)

Sec. 7.1. Transparency in finance. Upon request by the President of the Senate, the Speaker of the House of Representatives, or the Minority Leaders of the Senate and House of Representatives, the Office shall provide a summary of all formal presentations submitted by the Office to credit rating agencies or potential investors in State bonds. Within 10 business days after the submission of State financial information to credit rating agencies or potential investors in State bonds, a summary of the submitted information shall be provided to the legislative leaders and posted on the Office's website. Notwithstanding any provision to the contrary, the Office shall not release any information that is not subject to disclosure under the Freedom of Information Act.

(20 ILCS 3005/7.2 new)

Sec. 7.2. Quarterly financial reports. The Office shall prepare and publish a quarterly financial report to update the public and the General Assembly on the status of the State's finances. At a minimum, each report shall include the following information:

(1) A review of the State's economic outlook.

(2) A review of general funds revenue performance, both quarterly and year to date, and an evaluation of that performance.

(3) The outlook for future general funds revenue performance, including projections of future general funds revenues.

(4) An assessment of the State's financial position, including a summary of general fund receipts, transfers, expenditures, and liabilities.

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(5) A review of Statewide employment statistics.

(6) Other information necessary to present the status of the State's finances.

In addition, the fourth quarter report for each fiscal year shall include a summary of fiscal and balanced budget notes issued by the Office to the General Assembly during the prior legislative session. Each report shall be posted on the Office's website within 45 days.

Section 60. The General Assembly Compensation Act is amended by changing Section 4 as follows:  
(25 ILCS 115/4) (from Ch. 63, par. 15.1)

Sec. 4. Office allowance. Beginning July 1, 2001, each member of the House of Representatives is authorized to approve the expenditure of not more than \$61,000 per year and each member of the Senate is authorized to approve the expenditure of not more than \$73,000 per year to pay for "personal services", "contractual services", "commodities", "printing", "travel", "operation of automotive equipment", "telecommunications services", as defined in the State Finance Act, and the compensation of one or more legislative assistants authorized pursuant to this Section, in connection with his or her legislative duties and not in connection with any political campaign. On July 1, 2002 and on July 1 of each year thereafter, the amount authorized per year under this Section for each member of the Senate and each member of the House of Representatives shall be increased by a percentage increase equivalent to the lesser of (i) the increase in the designated cost of living index or (ii) 5%. The designated cost of living index is the index known as the "Employment Cost Index, Wages and Salaries, By Occupation and Industry Groups: State and Local Government Workers: Public Administration" as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year immediately preceding the year of the respective July 1st increase date. The increase shall be added to the then current amount, and the adjusted amount so determined shall be the annual amount beginning July 1 of the increase year until July 1 of the next year. No increase under this provision shall be less than zero.

A member may purchase office equipment if the member certifies to the Secretary of the Senate or the Clerk of the House, as applicable, that the purchase price, whether paid in lump sum or installments, amounts to less than would be charged for renting or leasing the equipment over its anticipated useful life. All such equipment must be purchased through the Secretary of the Senate or the Clerk of the House, as applicable, for proper identification and verification of purchase.

Each member of the General Assembly is authorized to employ one or more legislative assistants, who shall be solely under the direction and control of that member, for the purpose of assisting the member in the performance of his or her official duties. A legislative assistant may be employed pursuant to this Section as a full-time employee, part-time employee, or contractual employee, at the discretion of the member. If employed as a State employee, a legislative assistant shall receive employment benefits on the same terms and conditions that apply to other employees of the General Assembly. Each member shall adopt and implement personnel policies for legislative assistants under his or her direction and control relating to work time requirements, documentation for reimbursement for travel on official State business, compensation, and the earning and accrual of State benefits for those legislative assistants who may be eligible to receive those benefits. The policies shall also require legislative assistants to periodically submit time sheets documenting, in quarter-hour increments, the time spent each day on official State business. The policies shall require the time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years. Contractual employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. A member may satisfy the requirements of this paragraph by adopting and implementing the personnel policies promulgated by that member's legislative leader under the State Officials and Employees Ethics Act with respect to that member's legislative assistants.

As used in this Section the term "personal services" shall include contributions of the State under the Federal Insurance Contribution Act and under Article 14 of the Illinois Pension Code. As used in this Section the term "contractual services" shall not include improvements to real property unless those improvements are the obligation of the lessee under the lease agreement. Beginning July 1, 1989, as used in the Section, the term "travel" shall be limited to travel in connection with a member's legislative duties and not in connection with any political campaign. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, as used in this Section, the term "printing" includes, but is not limited to, newsletters, brochures, certificates, congratulatory mailings, greeting or welcome messages, anniversary or birthday cards, and congratulations for prominent achievement cards. As used in this Section, the term "printing" includes fees for non-substantive resolutions charged by the Clerk of the House of Representatives under subsection (c-5) of Section 1 of the Legislative Materials Act. No newsletter or brochure that is paid for, in whole or in part, with funds provided under this Section may

be printed or mailed during a period beginning December 15 of the year preceding a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. Nothing in this Section shall be construed to authorize expenditures for lodging and meals while a member is in attendance at sessions of the General Assembly.

Any utility bill for service provided to a member's district office for a period including portions of 2 consecutive fiscal years may be paid from funds appropriated for such expenditure in either fiscal year.

If a vacancy occurs in the office of Senator or Representative in the General Assembly, any office equipment in the possession of the vacating member shall transfer to the member's successor; if the successor does not want such equipment, it shall be transferred to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and if not wanted by other members of the General Assembly then to the Department of Central Management Services for treatment as surplus property under the State Property Control Act. Each member, on or before June 30th of each year, shall conduct an inventory of all equipment purchased pursuant to this Act. Such inventory shall be filed with the Secretary of the Senate or the Clerk of the House, as the case may be. Whenever a vacancy occurs, the Secretary of the Senate or the Clerk of the House, as the case may be, shall conduct an inventory of equipment purchased.

In the event that a member leaves office during his or her term, any unexpended or unobligated portion of the allowance granted under this Section shall lapse. The vacating member's successor shall be granted an allowance in an amount, rounded to the nearest dollar, computed by dividing the annual allowance by 365 and multiplying the quotient by the number of days remaining in the fiscal year.

From any appropriation for the purposes of this Section for a fiscal year which overlaps 2 General Assemblies, no more than 1/2 of the annual allowance per member may be spent or encumbered by any member of either the outgoing or incoming General Assembly, except that any member of the incoming General Assembly who was a member of the outgoing General Assembly may encumber or spend any portion of his annual allowance within the fiscal year.

The appropriation for the annual allowances permitted by this Section shall be included in an appropriation to the President of the Senate and to the Speaker of the House of Representatives for their respective members. The President of the Senate and the Speaker of the House shall voucher for payment individual members' expenditures from their annual office allowances to the State Comptroller, subject to the authority of the Comptroller under Section 9 of the State Comptroller Act.

Nothing in this Section prohibits the expenditure of personal funds or the funds of a political committee controlled by an officeholder to defray the customary and reasonable expenses of an officeholder in connection with the performance of governmental and public service functions.

(Source: P.A. 95-6, eff. 6-20-07.)

Section 65. The Lobbyist Registration Act is amended by changing Sections 2, 3, 3.1, 5, 6, 7, 10, and 11 and by adding Sections 4.5 and 11.3 as follows:

(25 ILCS 170/2) (from Ch. 63, par. 172)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Person" means any individual, firm, partnership, committee, association, corporation, or any other organization or group of persons.

(b) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, for the ultimate purpose of influencing executive, legislative, or administrative action, other than compensation as defined in subsection (d).

(c) "Official" means:

- (1) the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller;
- (2) Chiefs of Staff for officials described in item (1);
- (3) Cabinet members of any elected constitutional officer, including Directors, Assistant Directors and Chief Legal Counsel or General Counsel;
- (4) Members of the General Assembly.

(d) "Compensation" means any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying as defined in subsection (e).

Monies paid to members of the General Assembly by the State as remuneration for performance of their Constitutional and statutory duties as members of the General Assembly shall not constitute

compensation as defined by this Act.

(e) "Lobby" and "lobbying" "~~Lobbying~~" means any communication with an official of the executive or legislative branch of State government as defined in subsection (c) for the ultimate purpose of influencing any executive, legislative, or administrative action.

(f) "Influencing" means any communication, action, reportable expenditure as prescribed in Section 6 or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action or to promote goodwill with officials as defined in subsection (c).

(g) "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a State entity of a rule, regulation, order, decision, determination, contractual arrangement, purchasing agreement or other quasi-legislative or quasi-judicial action or proceeding.

(h) "Legislative action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment, or passage or defeat of any bill, amendment, resolution, report, nomination, administrative rule or other matter by either house of the General Assembly or a committee thereof, or by a legislator. Legislative action also means the action of the Governor in approving or vetoing any bill or portion thereof, and the action of the Governor or any agency in the development of a proposal for introduction in the legislature.

(i) "Administrative action" means the execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual arrangement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any executive agency, department, board or commission of the State.

(j) "Lobbyist" means any natural person who undertakes to lobby State government as provided in subsection (e).

(k) "Lobbying entity" means any entity that hires, retains, employs, or compensates a natural person to lobby State government as provided in subsection (e).

(Source: P.A. 88-187.)

(25 ILCS 170/3) (from Ch. 63, par. 173)

Sec. 3. Persons required to register.

(a) Except as provided in ~~Section Sections 4 and 9, any natural~~ the following persons shall register with the Secretary of State as provided herein: (1) Any person who, for compensation or otherwise, undertakes to lobby, or any either individually or as an employee or contractual employee of another person, undertakes to influence executive, legislative or administrative action. (2) Any person or entity who employs another person for the purposes of lobbying, shall register with the Secretary of State as provided in this Act, unless that person or entity qualifies for one or more of the following exemptions influencing executive, legislative or administrative action.

(1) Persons or entities who, for the purpose of influencing executive, legislative, or administrative action and who do not make expenditures that are reportable pursuant to Section 6, appear without compensation or promise thereof only as witnesses before committees of the House and Senate for the purpose of explaining or arguing for or against the passage of or action upon any legislation then pending before those committees, or who seek without compensation or promise thereof the approval or veto of any legislation by the Governor.

(1.4) A unit of local government or a school district.

(1.5) An elected or appointed official or an employee of a unit of local government or school district who, in the scope of his or her public office or employment, seeks to influence executive, legislative, or administrative action exclusively on behalf of that unit of local government or school district.

(2) Persons or entities who own, publish, or are employed by a newspaper or other regularly published periodical, or who own or are employed by a radio station, television station, or other bona fide news medium that in the ordinary course of business disseminates news, editorial or other comment, or paid advertisements that directly urge the passage or defeat of legislation. This exemption is not applicable to such an individual insofar as he or she receives additional compensation or expenses from some source other than the bona fide news medium for the purpose of influencing executive, legislative, or administrative action. This exemption does not apply to newspapers and periodicals owned by or published by trade associations and not-for-profit corporations engaged primarily in endeavors other than dissemination of news.

(3) Persons or entities performing professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation when those professional services are not otherwise, directly or indirectly, connected with executive, legislative, or administrative action.

(4) Persons or entities who are employees of departments, divisions, or agencies of State government and who appear before committees of the House and Senate for the purpose of explaining how the passage of or action upon any legislation then pending before those committees will affect those departments, divisions, or agencies of State government.

(5) Employees of the General Assembly, legislators, legislative agencies, and legislative commissions who, in the course of their official duties only, engage in activities that otherwise qualify as lobbying.

(6) Persons or entities in possession of technical skills and knowledge relevant to certain areas of executive, legislative, or administrative actions, whose skills and knowledge would be helpful to officials when considering those actions, whose activities are limited to making occasional appearances for or communicating on behalf of a registrant, and who do not make expenditures that are reportable pursuant to Section 6 even though receiving expense reimbursement for those occasional appearances.

(7) Any full-time employee of a bona fide church or religious organization who represents that organization solely for the purpose of protecting the right of the members thereof to practice the religious doctrines of that church or religious organization, or any such bona fide church or religious organization.

(8) Persons who receive no compensation other than reimbursement for expenses of up to \$500 per year while engaged in lobbying State government, unless those persons make expenditures that are reportable under Section 6.

(9) Any attorney or group or firm of attorneys in the course of representing a client in any administrative or judicial proceeding, or any witness providing testimony in any administrative or judicial proceeding, in which ex parte communications are not allowed and who does not make expenditures that are reportable pursuant to Section 6.

(10) Persons or entities who, in the scope of their employment as a vendor, offer or solicit an official for the purchase of any goods or services when (1) the solicitation is limited to either an oral inquiry or written advertisements and informative literature; or (2) the goods and services are subject to competitive bidding requirements of the Illinois Procurement Code; or (3) the goods and services are for sale at a cost not to exceed \$5,000; and (4) the persons or entities do not make expenditures that are reportable under Section 6.

(b) It is a violation of this Act to engage in lobbying or to employ any person for the purpose of lobbying who is not registered with the Office of the Secretary of State, except upon condition that the person register and the person does in fact register within 2 business days after being employed or retained for lobbying services.

(Source: P.A. 93-615, eff. 11-19-03.)

(25 ILCS 170/3.1)

Sec. 3.1. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, but not before that date, a person required to be registered under this Act, his or her spouse, and his or her immediate family members living with that person may not serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if the lobbyist is engaged in the same subject area as defined in Section 5(c-6) as the board or commission; except that this restriction does not apply to any of the following:

(1) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and

(2) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(25 ILCS 170/4.5 new)

Sec. 4.5. Ethics training. Each person required to register under this Act must complete a program of ethics training provided by the Secretary of State. A person registered under this Act must complete the training program during each calendar year the person remains registered. If the Secretary of State uses the ethics training developed in accordance with Section 5-10 of the State Officials and Employees Ethics Act, that training must be expanded to include appropriate information about the requirements, responsibilities, and opportunities imposed by or arising under this Act, including reporting requirements.

The Secretary of State shall adopt rules for the implementation of this Section.

(25 ILCS 170/5)

[May 21, 2009]

Sec. 5. Lobbyist registration and disclosure. Every person required to register under Section 3 shall before any service is performed which requires the person to register, but in any event not later than 2 business days after being employed or retained, and on or before each January 31 and July 31 thereafter, file in the Office of the Secretary of State a ~~written~~ statement in a format prescribed by the Secretary of State containing the following information with respect to each person or entity employing or retaining the person required to register:

(a) The registrant's name, permanent address, e-mail address, if any, fax number, if any, business telephone number, and temporary address, if the registrant has a temporary address while lobbying.

(a-5) If the registrant is an organization or business entity, the information required under subsection (a) for each person associated with the registrant who will be lobbying, regardless of whether lobbying is a significant part of his or her duties.

(b) The name and address of the person or persons employing or retaining registrant to perform such services or on whose behalf the registrant appears.

(c) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

(c-5) Each executive and legislative branch agency the registrant expects to lobby during the registration period.

(c-6) The nature of the client's business, by indicating all of the following categories that apply: (1) banking and financial services, (2) manufacturing, (3) education, (4) environment, (5) healthcare, (6) insurance, (7) community interests, (8) labor, (9) public relations or advertising, (10) marketing or sales, (11) hospitality, (12) engineering, (13) information or technology products or services, (14) social services, (15) public utilities, (16) racing or wagering, (17) real estate or construction, (18) telecommunications, (19) trade or professional association, (20) travel or tourism, (21) transportation, and (22) other (setting forth the nature of that other business).

The registrant must file an amendment to the statement within 14 calendar days to report any substantial change or addition to the information previously filed, except that a registrant must file an amendment to the statement to disclose a new agreement to retain the registrant for lobbying services before any service is performed which requires the person to register, but in any event not later than 2 business days after entering into the retainer agreement.

~~Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, or as soon thereafter as the Secretary of State has provided adequate software to the persons required to file, all statements and amendments to statements required to be filed shall be filed electronically. The Secretary of State shall promptly make all filed statements and amendments to statements publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all persons required to file. The Secretary of State shall implement a plan to provide computer access and assistance to persons required to file electronically.~~

~~All Persons required to register under this Act prior to July 1, 2003, shall remit a single, annual and nonrefundable \$50 registration fee. All fees collected for registrations prior to July 1, 2003, shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act. Beginning July 1, 2003, all persons other than entities qualified under Section 501(c)(3) of the Internal Revenue Code required to register under this Act shall remit a single, annual, and nonrefundable \$1,000 \$350 registration fee. Entities required to register under this Act which are qualified under Section 501(c)(3) of the Internal Revenue Code shall remit a single, annual, and nonrefundable \$150 registration fee. Each individual required to register under this Act shall submit, on an annual basis, a picture of the registrant. A registrant may, in lieu of submitting a picture on an annual basis, authorize the Secretary of State to use any photo identification available in any database maintained by the Secretary of State for other purposes. Of each registration fee collected for registrations on or after July 1, 2003, \$50 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act and is intended to be used to implement and maintain electronic filing of reports under this Act, the next \$100 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act, and any balance shall be deposited into the General Revenue Fund, except that amounts resulting from the fee increase of this amendatory Act of the 96th General Assembly shall be deposited into the Lobbyist Registration Administration Fund to be used for the costs of reviewing and investigating violations of this Act.~~

(Source: P.A. 93-32, eff. 7-1-03; 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(25 ILCS 170/6) (from Ch. 63, par. 176)

Sec. 6. Reports.

(a) Lobbyist reports. Except as otherwise provided in this Section, every lobbyist registered under this Act who is solely employed by a lobbying entity person required to register as prescribed in Section 3 shall file an affirmation report, verified under oath pursuant to Section 1-109 of the Code of Civil Procedure, with to the Secretary of State attesting to the accuracy of any reports filed pursuant to subsection (b) as those reports pertain to work performed by the lobbyist. Any lobbyist registered under this Act who is not solely employed by a lobbying entity shall personally file reports required of lobbying entities pursuant to subsection (b). A lobbyist may, if authorized so to do by a lobbying entity by whom he or she is employed or retained, file lobbying entity reports pursuant to section (b) provided that the lobbying entity may delegate the filing of the lobbying entity report to only one lobbyist in any reporting period all expenditures for lobbying made or incurred by the lobbyist on his behalf or the behalf of his employer. In the case where an individual is solely employed by another person to perform job related functions any part of which includes lobbying, the employer shall be responsible for reporting all lobbying expenditures incurred on the employer's behalf as shall be identified by the lobbyist to the employer preceding such report. Persons who contract with another person to perform lobbying activities shall be responsible for reporting all lobbying expenditures incurred on the employer's behalf. Any additional lobbying expenses incurred by the employer which are separate and apart from those incurred by the contractual employee shall be reported by the employer.

(b) Lobbying entity reports. Except as otherwise provided in this Section, every lobbying entity registered under this Act shall report expenditures related to lobbying. The report shall itemize each individual expenditure or transaction over \$100 and shall include the name of the official on whose behalf the expenditure was made, the name of the client on whose behalf the expenditure was made, if applicable, the total amount of the expenditure, a description of the expenditure, the address and location of the expenditure if the expenditure was for an intangible item such as lodging, the date on which the expenditure occurred and the subject matter of the lobbying activity, if any.

The report shall include the names and addresses of all clients who retained the lobbying entity together with an itemized description for each client of the following: (1) lobbying regarding executive action, including the name of any executive agency lobbied and the subject matter; (2) lobbying regarding legislative action, including the General Assembly and any other agencies lobbied and the subject matter; and (3) lobbying regarding administrative action, including the agency lobbied and the subject matter. Registrants who made no reportable expenditures during a reporting period shall file a report stating that no expenditures were incurred.

Expenditures attributable to lobbying officials shall be listed and reported according to the following categories:

- (1) travel and lodging on behalf of others.
- (2) meals, beverages and other entertainment.
- (3) gifts (indicating which, if any, are on the basis of personal friendship).
- (4) honoraria.

(5) any other thing or service of value not listed under categories (1) through (4), setting forth a description of the expenditure. The category travel and lodging includes, but is not limited to, all travel and living accommodations made for or on behalf of State officials in the State capital during sessions of the General Assembly.

~~Individual expenditures required to be reported as described herein which are equal to or less than \$100 in value need not be itemized but are required to be categorized and reported by officials in an aggregate total in a manner prescribed by rule of the Secretary of State.~~

(b-3) Expenditures incurred for hosting receptions, benefits and other large gatherings held for purposes of goodwill or otherwise to influence executive, legislative or administrative action to which there are 25 or more State officials invited shall be reported listing only the total amount of the expenditure, the date of the event, and the estimated number of officials in attendance.

(b-5) Each individual expenditure required to be reported shall include all expenses made for or on behalf of State officials and their immediate family members of the immediate family of those persons.

~~The category travel and lodging includes, but is not limited to, all travel and living accommodations made for or on behalf of State officials in the capital during sessions of the General Assembly.~~

(b-7) Matters excluded from reports. Reasonable and bona fide expenditures made by the registrant who is a member of a legislative or State study commission or committee while attending and participating in meetings and hearings of such commission or committee need not be reported.

Reasonable and bona fide expenditures made by the registrant for personal sustenance, lodging, travel, office expenses and clerical or support staff need not be reported.

Salaries, fees, and other compensation paid to the registrant for the purposes of lobbying need not be reported.

Any contributions required to be reported under Article 9 of the Election Code need not be reported.

~~The report shall include: (1) the name of each State government entity lobbied; (2) whether the lobbying involved executive, legislative, or administrative action, or a combination; (3) the names of the persons who performed the lobbyist services; and (4) a brief description of the legislative, executive, or administrative action involved.~~

~~Except as otherwise provided in this subsection, gifts and honoraria returned or reimbursed to the registrant within 30 days of the date of receipt shall not be reported.~~

A gift or honorarium returned or reimbursed to the registrant within 10 days after the official receives a copy of a report pursuant to Section 6.5 shall not be included in the final report unless the registrant informed the official, contemporaneously with the receipt of the gift or honorarium, that the gift or honorarium is a reportable expenditure pursuant to this Act.

~~(c) Reports under this Section shall be filed by July 31, for expenditures from the previous January 1 through the later of June 30 or the final day of the regular General Assembly session, and by January 31, for expenditures from the entire previous calendar year.~~

~~Registrants who made no reportable expenditures during a reporting period shall file a report stating that no expenditures were incurred. Such reports shall be filed in accordance with the deadlines as prescribed in this subsection.~~

A registrant who terminates employment or duties which required him to register under this Act shall give the Secretary of State, within 30 days after the date of such termination, written notice of such termination and shall include therewith a report of the expenditures described herein, covering the period of time since the filing of his last report to the date of termination of employment. Such notice and report shall be final and relieve such registrant of further reporting under this Act, unless and until he later takes employment or assumes duties requiring him to again register under this Act.

(d) Failure to file any such report within the time designated or the reporting of incomplete information shall constitute a violation of this Act.

A registrant shall preserve for a period of 2 years all receipts and records used in preparing reports under this Act.

(e) Within 30 days after a filing deadline or as provided by rule, the lobbyist shall notify each official on whose behalf an expenditure has been reported. Notification shall include the name of the registrant, the total amount of the expenditure, a description of the expenditure, the date on which the expenditure occurred, and the subject matter of the lobbying activity.

(f) Lobbyist and lobbying entity reports shall be filed weekly when the General Assembly is in session and monthly otherwise, in accordance with rules the Secretary of State shall adopt for the implementation of this subsection. A report filed under this Act is due in the Office of the Secretary of State no later than the close of business on the date on which it is required to be filed.

(g) All reports filed under this Act shall be filed in a format or on forms prescribed by the Secretary of State.

(Source: P.A. 93-244, eff. 1-1-04; 93-615, eff. 11-19-03.)

(25 ILCS 170/7) (from Ch. 63, par. 177)

Sec. 7. Duties of the Secretary of State.

(a) It shall be the duty of the Secretary of State to provide appropriate forms for the registration and reporting of information required by this Act and to keep such registrations and reports on file in his office for 3 years from the date of filing. He shall also provide and maintain a register with appropriate blanks and indexes so that the information required in Sections 5 and 6 of this Act may be accordingly entered. Such records shall be considered public information and open to public inspection.

~~A report filed under this Act is due in the Office of the Secretary of State no later than the close of business on the date on which it is required to be filed.~~

(b) Within 10 days after a filing deadline, the Secretary of State shall notify persons he determines are required to file but have failed to do so.

(c) The Secretary of State shall provide adequate software to the persons required to file under this Act, and all registrations, reports, statements, and amendments required to be filed shall be filed electronically. Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, or as soon thereafter as the Secretary of State has provided adequate software to the persons required to file, all reports required under this Act shall be filed electronically. The Secretary of State shall promptly make all filed reports publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all persons required to file. The Secretary of State shall implement a plan to provide computer access and assistance to persons required to file electronically.

(d) Not later than 12 months after the effective date of this amendatory Act of the 93rd General

Assembly, the Secretary of State shall include registrants' pictures when publishing or posting on his or her website the information required in Section 5.

(e) The Secretary of State shall receive and investigate allegations of violations of this Act. Any employee of the Secretary of State who receives an allegation shall immediately transmit it to the Secretary of State Inspector General.

(Source: P.A. 93-615, eff. 11-19-03.)

(25 ILCS 170/10) (from Ch. 63, par. 180)

Sec. 10. Penalties.

(a) Any person who violates any of the provisions of this Act shall be guilty of a business offense and shall be fined not more than \$10,000 for each violation. Every day that a report or registration is late shall constitute a separate violation. In determining the appropriate fine for each violation, the trier of fact shall consider the scope of the entire lobbying project, the nature of activities conducted during the time the person was in violation of this Act, and whether or not the violation was intentional or unreasonable.

(b) In addition to the penalties provided for in subsection (a) of this Section, any person convicted of any violation of any provision of this Act is prohibited for a period of three years from the date of such conviction from lobbying.

(c) There is created in the State treasury a special fund to be known as the Lobbyist Registration Administration Fund. All fines collected in the enforcement of this Section shall be deposited into the Fund. These funds shall, subject to appropriation, be used by the Office of the Secretary of State for implementation and administration of this Act.

(Source: P.A. 88-187.)

(25 ILCS 170/11) (from Ch. 63, par. 181)

Sec. 11. ~~Enforcement Venue.~~

(a) The Secretary of State Inspector General appointed under Section 14 of the Secretary of State Act shall initiate investigations of violations of this Act upon receipt of an allegation. If the Inspector General finds credible evidence of a violation, he or she shall make the information available to the public and transmit copies of the evidence to the alleged violator. If the violator does not correct the violation within 30 days, the Inspector General shall transmit the full record of the investigation to any appropriate State's Attorney or to the Attorney General.

(b) Any violation of this Act may be prosecuted in the county where the offense is committed or in Sangamon County. In addition to the State's Attorney of the appropriate county, the Attorney General of Illinois also is authorized to prosecute any violation of this Act.

(Source: P.A. 76-1848.)

(25 ILCS 170/11.3 new)

Sec. 11.3. Compensation from a State agency. It is a violation of this Act for a person registered or required to be registered under this Act to accept or agree to accept compensation from a State agency for the purpose of lobbying legislative action.

This Section does not apply to compensation (i) that is a portion of the salary of a full-time employee of a State agency whose responsibility or authority includes, but is not limited to, lobbying executive, legislative, or administrative action or (ii) to an individual who is contractually retained by a State agency that is not listed in Section 5-15 of the Civil Administrative Code of Illinois.

For the purpose of this Section, "State agency" is defined as in the Illinois State Auditing Act.

(25 ILCS 170/4 rep.)

Section 70. The Lobbyist Registration Act is amended by repealing Section 4.

Section 75. The State Prompt Payment Act is amended by changing Section 3-2 as follows:

(30 ILCS 540/3-2) (from Ch. 127, par. 132.403-2)

Sec. 3-2. Beginning July 1, 1993, in any instance where a State official or agency is late in payment of a vendor's bill or invoice for goods or services furnished to the State, as defined in Section 1, properly approved in accordance with rules promulgated under Section 3-3, the State official or agency shall pay interest to the vendor in accordance with the following:

(1) Any bill approved for payment under this Section must be paid or the payment issued to the payee within 60 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made.

(1.1) A State agency shall review in a timely manner each bill or invoice after its receipt. If the State agency determines that the bill or invoice contains a defect making it unable to

process the payment request, the agency shall notify the vendor requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under Section 3-3; provided, however, that the notice for construction related bills or invoices must be given not later than 30 days after the bill or invoice was first submitted. The notice shall identify the defect and any additional information necessary to correct the defect. If one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid.

(2) Where a State official or agency is late in payment of a vendor's bill or invoice properly approved in accordance with this Act, and different late payment terms are not reduced to writing as a contractual agreement, the State official or agency shall automatically pay interest penalties required by this Section ~~amounting to \$50 or more~~ to the appropriate vendor. Each agency shall be responsible for determining whether an interest penalty is owed and for paying the interest to the vendor. ~~For interest of at least \$5 but less than \$50, the vendor must initiate a written request for the interest penalty when such interest is due and payable. The Department of Central Management Services and the State Comptroller shall jointly promulgate rules establishing the conditions under which interest of less than \$5 may be claimed and paid.~~ In the event an individual has paid a vendor for services in advance, the provisions of this Section shall apply until payment is made to that individual.

(Source: P.A. 94-972, eff. 7-1-07.)

Section 80. The Illinois Public Aid Code is amended by changing Section 12-13.1 as follows:  
(305 ILCS 5/12-13.1)

Sec. 12-13.1. Inspector General.

(a) The Governor shall appoint, and the Senate shall confirm, an Inspector General who shall function within the Illinois Department of Public Aid (now Healthcare and Family Services) and report to the Governor. The term of the Inspector General shall expire on the third Monday of January, 1997 and every 4 years thereafter.

(b) In order to prevent, detect, and eliminate fraud, waste, abuse, mismanagement, and misconduct, the Inspector General shall oversee the Department of Healthcare and Family Services' integrity functions, which include, but are not limited to, the following:

(1) Investigation of misconduct by employees, vendors, contractors and medical providers except for allegations of violations of the State Officials and Employees Ethics Act which shall be referred to the Office of the Governor's Executive Inspector General for investigation.

(2) Audits of medical providers related to ensuring that appropriate payments are made for services rendered and to the recovery of overpayments.

(3) Monitoring of quality assurance programs generally related to the medical assistance program and specifically related to any managed care program.

(4) Quality control measurements of the programs administered by the Department of Healthcare and Family Services.

(5) Investigations of fraud or intentional program violations committed by clients of the Department of Healthcare and Family Services.

(6) Actions initiated against contractors or medical providers for any of the following reasons:

(A) Violations of the medical assistance program.

(B) Sanctions against providers brought in conjunction with the Department of Public Health or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities).

(C) Recoveries of assessments against hospitals and long-term care facilities.

(D) Sanctions mandated by the United States Department of Health and Human Services against medical providers.

(E) Violations of contracts related to any managed care programs.

(7) Representation of the Department of Healthcare and Family Services at hearings with the Illinois Department of Professional Regulation in actions taken against professional licenses held by persons who are in violation of orders for child support payments.

(b-5) At the request of the Secretary of Human Services, the Inspector General shall, in relation to any function performed by the Department of Human Services as successor to the Department of Public Aid, exercise one or more of the powers provided under this Section as if those powers related to the Department of Human Services; in such matters, the Inspector General shall report his or her findings to the Secretary of Human Services.

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(c) The Inspector General shall have access to all information, personnel and facilities of the Department of Healthcare and Family Services and the Department of Human Services (as successor to the Department of Public Aid), their employees, vendors, contractors and medical providers and any federal, State or local governmental agency that are necessary to perform the duties of the Office as directly related to public assistance programs administered by those departments. No medical provider shall be compelled, however, to provide individual medical records of patients who are not clients of the Medical Assistance Program. State and local governmental agencies are authorized and directed to provide the requested information, assistance or cooperation.

(d) The Inspector General shall serve as the Department of Healthcare and Family Services' primary liaison with law enforcement, investigatory and prosecutorial agencies, including but not limited to the following:

(1) The Department of State Police.

(2) The Federal Bureau of Investigation and other federal law enforcement agencies.

(3) The various Inspectors General of federal agencies overseeing the programs administered by the Department of Healthcare and Family Services.

(4) The various Inspectors General of any other State agencies with responsibilities for portions of programs primarily administered by the Department of Healthcare and Family Services.

(5) The Offices of the several United States Attorneys in Illinois.

(6) The several State's Attorneys.

The Inspector General shall meet on a regular basis with these entities to share information regarding possible misconduct by any persons or entities involved with the public aid programs administered by the Department of Healthcare and Family Services.

(e) All investigations conducted by the Inspector General shall be conducted in a manner that ensures the preservation of evidence for use in criminal prosecutions. If the Inspector General determines that a possible criminal act relating to fraud in the provision or administration of the medical assistance program has been committed, the Inspector General shall immediately notify the Medicaid Fraud Control Unit. If the Inspector General determines that a possible criminal act has been committed within the jurisdiction of the Office, the Inspector General may request the special expertise of the Department of State Police. The Inspector General may present for prosecution the findings of any criminal investigation to the Office of the Attorney General, the Offices of the several United States Attorneys in Illinois or the several State's Attorneys.

(f) To carry out his or her duties as described in this Section, the Inspector General and his or her designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to public assistance programs administered by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Public Aid). No medical provider shall be compelled, however, to provide individual medical records of patients who are not clients of the Medical Assistance Program.

(g) The Inspector General shall report all convictions, terminations, and suspensions taken against vendors, contractors and medical providers to the Department of Healthcare and Family Services and to any agency responsible for licensing or regulating those persons or entities.

(h) The Inspector General shall make annual reports, findings, and recommendations regarding the Office's investigations into reports of fraud, waste, abuse, mismanagement, or misconduct relating to any public aid programs administered by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Public Aid) to the General Assembly and the Governor. These reports shall include, but not be limited to, the following information:

(1) Aggregate provider billing and payment information, including the number of providers at various Medicaid earning levels.

(2) The number of audits of the medical assistance program and the dollar savings resulting from those audits.

(3) The number of prescriptions rejected annually under the Department of Healthcare and Family Services' Refill Too Soon program and the dollar savings resulting from that program.

(4) Provider sanctions, in the aggregate, including terminations and suspensions.

(5) A detailed summary of the investigations undertaken in the previous fiscal year.

These summaries shall comply with all laws and rules regarding maintaining confidentiality in the public aid programs.

(i) Nothing in this Section shall limit investigations by the Department of Healthcare and Family Services or the Department of Human Services that may otherwise be required by law or that may be

necessary in their capacity as the central administrative authorities responsible for administration of public aid programs in this State.  
(Source: P.A. 95-331, eff. 8-21-07.)

Section 85. The Whistleblower Act is amended by changing Section 20 and by adding Sections 20.1 and 20.2 as follows:

(740 ILCS 174/20)

Sec. 20. Retaliation for certain refusals prohibited. An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act.

(Source: P.A. 93-544, eff. 1-1-04.)

(740 ILCS 174/20.1 new)

Sec. 20.1. Other retaliation. Any other act or omission not otherwise specifically set forth in this Act, whether within or without the workplace, also constitutes retaliation by an employer under this Act if the act or omission would be materially adverse to a reasonable employee and is because of the employee disclosing or attempting to disclose public corruption or wrongdoing.

(740 ILCS 174/20.2 new)

Sec. 20.2. Threatening retaliation. An employer may not threaten any employee with any act or omission if that act or omission would constitute retaliation against the employee under this Act.

Section 99. Effective date. This Act takes effect upon becoming law, except that Section 20 and Section 65 take effect January 1, 2010 .".

Under the rules, the foregoing **Senate Bill No. 54**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1333

A bill for AN ACT concerning government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1333

House Amendment No. 2 to SENATE BILL NO. 1333

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1333**

AMENDMENT NO. 1. Amend Senate Bill 1333 by replacing everything after the enacting clause with the following:

"ARTICLE 5.

Section 5-1. Short title. This Article may be cited as the Officials and Employees Termination Act of 2009.

Section 5-5. In this Article:

"Designated official" means (i) each head, assistant head, and deputy head of an executive State agency who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate, (ii) each member of an executive board or commission who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate, and (iii) any other person who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate.

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"Designated employee" means:

- (a) each employee of an executive State agency or executive board or commission:
  - (1) who occupies a *Rutan* exempt position; and
  - (2) who occupies a position that is also partially exempted from the Personnel Code pursuant to:
    - (A) Section 4(d)(1) (20 ILCS 415/4(d)(1)); or
    - (B) Section 4(d)(3) (20 ILCS 415/4(d)(3)); and
  - (3) whose employment in that position began between January 11, 1999 and January 29, 2009; or
- (b) each employee of an executive State agency or executive board or commission:
  - (1) who occupies a *Rutan* exempt position; and
  - (2) who occupies a non-Personnel Code position; and
  - (3) who is an at-will employee, not subject to any merit or fitness protections; and
- (4) whose employment in that position began between January 11, 1999 and January 29, 2009.

Specifically excluded from this definition is any employee covered by a collective bargaining agreement.

"Executive board or commission" means each executive branch board or commission created by law that is not under the jurisdiction and control of the Lieutenant Governor, Attorney General, Secretary of State, Treasurer, or Comptroller, but does not include the State Board of Elections.

"Executive State agency" means each executive branch department, agency, institution, authority, public institution of higher learning, and body politic and corporate of the State created by law that is not under the jurisdiction of the Lieutenant Governor, Attorney General, Secretary of State, Treasurer, or Comptroller, but does not include the State Board of Elections.

"*Rutan*" means the opinion of the United States Supreme Court in *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).

#### Section 5-10. Termination.

(a) Each designated official is terminated in office or employment, by operation of law, on the date that is 90 days after the effective date of this Article, and a vacancy then exists unless, within that 90-day period, the Governor files with the Secretary of State a written certification naming each designated official who is retained in his or her position. Retainage in a position by the Governor under this subsection does not constitute an appointment or reappointment and does not require the advice and consent of the Senate.

(b) The employment of each designated employee is terminated, by operation of law, on the date that is 90 days after the effective date of this Article unless, within that 90-day period, the Governor or the employing or appointing authority files with the Secretary of State a written certification naming each designated employee who is retained in employment.

(c) Nothing in this Article (i) prevents the Governor from subsequently making a temporary appointment or from subsequently nominating or employing a person terminated under subsection (a) or (b) or (ii) prevents an employing or appointing authority from subsequently employing or appointing a person terminated under subsection (a) or (b).

(d) The Executive Director of the Illinois Finance Authority, holding that position on May 1, 2009, is terminated, by operation of law, 30 days after the effective date of this Article and shall thereafter no longer hold that position or any other employment position with the Illinois Finance Authority.

(e) The Governor and all other responsible government entities are directed to take whatever action is necessary to effectuate these terminations.

Section 5-15. Finding. The General Assembly hereby finds and declares that the determination of employment status for positions within the executive branch is a prerogative of the Governor or other constitutional officer of the executive branch, as the case may be. The changes contained in this Act reflect the demands of a unique and unprecedented circumstance; accordingly, this Act shall in no way be construed as impairing or derogating in any way the Governor's supreme executive authority under Article V of the Illinois Constitution or the Governor's powers under the laws of the State of Illinois.

Section 5-20. Article controls. The provisions of this Article control over inconsistent provisions of any other law except Public Act 96-6.

[May 21, 2009]

## ARTICLE 10.

Section 10-1. Short title. This Article may be cited as the Illinois Task Force on Personnel and Patronage Reform Law.

Section 10-5. Purpose. The mission of the Illinois Task Force on Personnel and Patronage Reform (the "Task Force") is to recommend to the Governor and the General Assembly a reform proposal for the Personnel Code that is guided by the following principles:

- (1) providing effective public service by qualified public servants, rather than rewarding well-connected or politically subservient persons with employment in fabricated or otherwise unnecessary positions; and
- (2) establishing and maintaining an independent and professional personnel system.

Section 10-10. Personnel Code and Patronage Abuses. The Task Force shall conduct an examination of the Personnel Code (the "Code") and hiring practices within the executive branch that, at a minimum, includes an examination of the following:

- (1) the number and scope of positions deemed to be *Rutan* exempt or totally or partially exempt from the Code;
- (2) the hiring of contractual employees, interns, and other temporary employees that are either totally exempt or partially exempt from the Code and whether these positions should remain totally or partially exempt from the Code;
- (3) the current criteria or method for determining whether an employee is *Rutan* exempt or totally or partially exempt under the Code;
- (4) the manner in which job descriptions are changed, the manner in which new positions are created, and whether these practices are susceptible to patronage abuses;
- (5) the practice and propriety of employees who are exempt from *Rutan* or the Personnel Code becoming parties to a collective bargaining agreement; and
- (6) ways to increase uniformity and promote fairness and political neutrality in the State's hiring process.

Section 10-20. Task Force members. The Task Force shall consist of the Chairman of the Illinois Civil Service Commission, or his or her designee, and the following appointed members:

- (1) One member appointed by the Governor, who shall be an attorney with a background in personnel law and one of whom shall serve as chair of the Task Force.
- (2) One member appointed by the Speaker of the House.
- (3) One member appointed by the Senate President.
- (4) One member appointed by the House Minority Leader.
- (5) One member appointed by the Senate Minority Leader.
- (6) One member, who must be a member of the Executive Ethics Commission, appointed by the Chairman of the Executive Ethics Commission.

Appointments to the Task Force shall be made within 30 days after the effective date of this Article. A quorum must be present to conduct all meetings and must consist of 4 members.

Section 10-25. Report. The Task Force shall submit a report to the Governor and the General Assembly with specific recommendations for reform no later than one year after the effective date of this Article.

Section 10-30. Meetings. The Task Force shall convene meetings in a frequency the members determine, but at a minimum shall meet quarterly. The Task Force shall adhere to the Open Meetings Act and the Freedom of Information Act.

Section 10-35. Costs. The Department of Central Management Services shall provide technical and administrative support to the Task Force. All members of the Task Force shall serve without compensation, except that expenses related to travel shall be provided for by the Department of Central Management Services.

## ARTICLE 15.

Section 1000. The State Officials and Employees Ethics Act is amended by changing Sections 20-5 and 20-15 as follows:

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

~~The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.~~

After the initial terms, commissioners appointed by the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year.

Notwithstanding the Officials and Employees Termination Act of 2009, the terms of all commissioners appointed by the Governor end on the effective date of this amendatory Act of the 96th General Assembly, and those commissioners may not hold over in office for more than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The initial appointees of the Governor on or after the effective date of this amendatory Act of the 96th General Assembly shall serve terms as follows as designated by the Governor: one running through June 30, 2010; one running through June 30, 2011; one running through June 30, 2012; one running through June 30, 2013; and one running through June 30, 2014. After the initial terms, commissioners appointed by the Governor shall serve 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

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(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
- (3) be actively involved in the affairs of any political party or political organization; or
- (4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-15)

Sec. 20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20-21.

(9) To require State agencies under its jurisdiction to make available to the public for inspection and copying during normal business hours and post on its website a list of the name and position of all employees of the agency who are *Rutan* exempt and to indicate on that list which of those employees are also totally or partially exempt from the Personnel Code.

(10) To require State agencies under its jurisdiction to explain, in a written document, any deviation from established job qualifications in making a hiring decision, to identify by name the person responsible for the deviation, to place a copy of that document in each applicant's file, and to deliver a copy of that document to the Executive Ethics Commission.

(11) To require State agencies under its jurisdiction to explain, in a written document, any change in a job description and to deliver a copy of that document to the Executive Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

Section 1012. The Civil Administrative Code of Illinois is amended by changing Section 5-175 as follows:

(20 ILCS 5/5-175) (was 20 ILCS 5/5.12)

Sec. 5-175. In the Department of Revenue. Assistant Director of Revenue; ~~and State Lottery Superintendent.~~

(Source: P.A. 91-239, eff. 1-1-00.)

Section 1015. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-707 as follows:

(20 ILCS 605/605-707) (was 20 ILCS 605/46.6d)

Sec. 605-707. International Tourism Program.

(a) The Department of Commerce and Economic Opportunity must establish a program for international tourism. The Department shall develop and implement the program on January 1, 2000 by rule. As part of the program, the Department may work in cooperation with local convention and tourism bureaus in Illinois in the coordination of international tourism efforts at the State and local level. The Department may (i) work in cooperation with local convention and tourism bureaus for efficient use of their international tourism marketing resources, (ii) promote Illinois in international meetings and tourism markets, (iii) work with convention and tourism bureaus throughout the State to increase the number of international tourists to Illinois, (iv) provide training, research, technical support, and grants to certified convention and tourism bureaus, (v) provide staff, administration, and related support required to manage the programs under this Section, and (vi) provide grants for the development of or the enhancement of international tourism attractions.

(b) The Department shall make grants for expenses related to international tourism and pay for the staffing, administration, and related support from the International Tourism Fund, a special fund created in the State Treasury. Of the amounts deposited into the Fund in fiscal year 2000 after January 1, 2000, 55% shall be used for grants to convention and tourism bureaus in Chicago (other than the City of Chicago's Office of Tourism) and 45% shall be used for development of international tourism in areas outside of Chicago. Of the amounts deposited into the Fund in fiscal year 2001 and thereafter, 55% shall be used for grants to convention and tourism bureaus in Chicago, and of that amount not less than 27.5% shall be used for grants to convention and tourism bureaus in Chicago other than the City of Chicago's Office of Tourism, and 45% shall be used for administrative expenses and grants authorized under this Section and development of international tourism in areas outside of Chicago, of which not less than \$1,000,000 shall be used annually to make grants to convention and tourism bureaus in cities other than Chicago that demonstrate their international tourism appeal and request to develop or expand their international tourism marketing program, and may also be used to provide grants under item (vi) of subsection (a) of this Section. Amounts appropriated to the State Comptroller for administrative expenses ~~and grants authorized by the Illinois Global Partnership Act~~ are payable from the International Tourism Fund.

(c) A convention and tourism bureau is eligible to receive grant moneys under this Section if the bureau is certified to receive funds under Title 14 of the Illinois Administrative Code, Section 550.35. To be eligible for a grant, a convention and tourism bureau must provide matching funds equal to the grant amount. In certain circumstances as determined by the Director of Commerce and Economic Opportunity, however, the City of Chicago's Office of Tourism or any other convention and tourism bureau may provide matching funds equal to no less than 50% of the grant amount to be eligible to receive the grant. One-half of this 50% may be provided through in-kind contributions. Grants received by the City of Chicago's Office of Tourism and by convention and tourism bureaus in Chicago may be expended for the general purposes of promoting conventions and tourism.

(Source: P.A. 94-91, eff. 7-1-05.)

Section 1020. The Illinois Lottery Law is amended by changing Sections 3, 4, 5, 7.1, 7.6, 7.11, 9, 10, 10.1, 10.1a, 10.2, 10.6, 10.7, 12, 13, 14, 14.3, 19, and 21 and by adding Section 4.5 as follows:

(20 ILCS 1605/3) (from Ch. 120, par. 1153)

Sec. 3. For the purposes of this Act:

a. "Lottery" or "State Lottery" means the lottery or lotteries established and operated pursuant to this Act.

b. "Board" means the Lottery Control Board created by this Act.

c. "Department" means the Department of ~~the Lottery Revenue~~.

d. "Director" means the Director of ~~the Lottery Revenue~~.

e. "Chairman" means the Chairman of the Lottery Control Board.

f. "Multi-state game directors" means such persons, including the ~~Director Superintendent~~, as may be designated by an agreement between the ~~Department Division~~ and one or more additional lotteries operated under the laws of another state or states.

g. (Blank). "~~Division~~" means the ~~Division of the State Lottery of the Department of Revenue~~.

h. (Blank). "~~Superintendent~~" means the ~~Superintendent of the Division of the State Lottery of the Department of Revenue~~.

(Source: P.A. 94-776, eff. 5-19-06.)

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(20 ILCS 1605/4) (from Ch. 120, par. 1154)

Sec. 4. The Department of the Lottery is established to implement and regulate the State Lottery in the manner provided in this Act.

~~In accordance with Executive Order No. 9 (2003), the Division of the State Lottery is established within the Department of Revenue. Unless otherwise provided by law, the Division of the State Lottery shall be subject to and governed by all of the laws and rules applicable to the Department.~~

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/4.5 new)

Sec. 4.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Department of the Lottery, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003).

(20 ILCS 1605/5) (from Ch. 120, par. 1155)

Sec. 5. The ~~Department Division~~ shall be under the supervision and direction of a Director Superintendent, who shall be a person qualified by training and experience to perform the duties required by this Act. The Director Superintendent shall be appointed by the Governor, by and with the advice and consent of the Senate. The term of office of the Director Superintendent shall expire on the third Monday of January in odd numbered years provided that he or she shall hold office until a successor is appointed and qualified.

Any vacancy occurring in the office of the Director Superintendent shall be filled in the same manner as the original appointment.

The Director Superintendent shall devote his or her entire time and attention to the duties of the office and shall not be engaged in any other profession or occupation. The Director Superintendent shall receive such salary as shall be provided by law.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.1) (from Ch. 120, par. 1157.1)

Sec. 7.1. The Department shall promulgate such rules and regulations governing the establishment and operation of a State lottery as it deems necessary to carry out the purposes of this Act. Such rules and regulations shall be subject to the provisions of The Illinois Administrative Procedure Act. The ~~Department Division~~ shall issue written game rules, play instructions, directives, operations manuals, brochures, or any other publications necessary to conduct specific games, as authorized by rule by the Department. Any written game rules, play instructions, directives, operations manuals, brochures, or other game publications issued by the ~~Department Division~~ that relate to a specific lottery game shall be maintained as a public record in the ~~Department's Division's~~ principal office, and made available for public inspection and copying but shall be exempt from the rulemaking procedures of the Illinois Administrative Procedure Act. However, when such written materials contain any policy of general applicability, the ~~Department Division~~ shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act. In addition, the ~~Department Division~~ shall publish each January in the Illinois Register a list of all game-specific rules, play instructions, directives, operations manuals, brochures, or other game-specific publications issued by the ~~Department Division~~ during the previous year and instructions concerning how the public may obtain copies of these materials from the Division.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.6) (from Ch. 120, par. 1157.6)

Sec. 7.6. The Board shall advise and make recommendations to ~~the Superintendent or~~ the Director regarding the functions and operations of the State Lottery. A copy of all such recommendations shall also be forwarded to the Governor, the Attorney General, the Speaker of the House, the President of the Senate and the minority leaders of both houses.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.11) (from Ch. 120, par. 1157.11)

Sec. 7.11. The ~~Department Division~~ may establish and collect nominal charges for promotional products ("premiums") and other promotional materials produced or acquired by the ~~Department Division~~ as part of its advertising and promotion activities. Such premiums or other promotional

materials may be sold to individuals, government agencies and not-for-profit organizations, but not to for-profit enterprises for the purpose of resale. Other State agencies shall be charged no more than the cost to the ~~Department~~ ~~Division~~ of the premium or promotional material. All proceeds from the sale of premiums or promotional materials shall be deposited in the State Lottery Fund in the State Treasury.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/9) (from Ch. 120, par. 1159)

Sec. 9. The ~~Director~~ ~~Superintendent~~, as administrative head of the ~~Department~~ ~~Division~~, shall direct and supervise all its administrative and technical activities ~~and shall report to the Director~~. In addition to the duties imposed upon him elsewhere in this Act, it shall be the ~~Director's~~ ~~Superintendent's~~ duty:

a. To supervise and administer the operation of the lottery in accordance with the provisions of this Act or such rules and regulations of the Department adopted thereunder.

b. To attend meetings of the Board or to appoint a designee to attend in his stead.

c. To employ and direct such personnel in accord with the Personnel Code, as may be necessary to carry out the purposes of this Act. The ~~Director~~ ~~Superintendent~~ may, ~~subject to the approval of the Director~~, use the services, personnel, or facilities of the Department. In addition, the ~~Director~~ ~~Superintendent~~ may by agreement secure such services as he or she may deem necessary from any other department, agency, or unit of the State government, and may employ and compensate such consultants and technical assistants as may be required and is otherwise permitted by law.

d. To license, in accordance with the provisions of Sections 10 and 10.1 of this Act and the rules and regulations of the Department adopted thereunder, as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The ~~Director~~ ~~Superintendent~~ may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the Department. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the Department.

e. To suspend or revoke any license issued pursuant to this Act or the rules and regulations promulgated by the Department thereunder.

f. To confer regularly as necessary or desirable and not less than once every month with the Lottery Control Board on the operation and administration of the Lottery; to make available for inspection by the Board or any member of the Board, upon request, all books, records, files, and other information and documents of his office; to advise the Board and recommend such rules and regulations and such other matters as he deems necessary and advisable to improve the operation and administration of the lottery.

g. To enter into contracts for the operation of the lottery, or any part thereof, and into contracts for the promotion of the lottery on behalf of the Department with any person, firm or corporation, to perform any of the functions provided for in this Act or the rules and regulations promulgated thereunder. The Department shall not expend State funds on a contractual basis for such functions unless those functions and expenditures are expressly authorized by the General Assembly.

h. To enter into an agreement or agreements with the management of state lotteries operated pursuant to the laws of other states for the purpose of creating and operating a multi-state lottery game wherein a separate and distinct prize pool would be combined to award larger prizes to the public than could be offered by the several state lotteries, individually. No tickets or shares offered in connection with a multi-state lottery game shall be sold within the State of Illinois, except those offered by and through the Department. No such agreement shall purport to pledge the full faith and credit of the State of Illinois, nor shall the Department expend State funds on a contractual basis in connection with any such game unless such expenditures are expressly authorized by the General Assembly, provided, however, that in the event of error or omission by the Illinois State Lottery in the conduct of the game, as determined by the multi-state game directors, the Department shall be authorized to pay a prize winner or winners the lesser of a disputed prize or \$1,000,000, any such payment to be made solely from funds appropriated for game prize purposes. The Department shall be authorized to share in the ordinary operating expenses of any such multi-state lottery game, from funds appropriated by the General Assembly, and in the event the multi-state game control offices are physically located within the State of Illinois, the Department is authorized to advance start-up operating costs not to exceed \$150,000, subject to proportionate reimbursement of such costs by the other participating state lotteries. The Department shall be authorized to share proportionately in the costs of establishing a liability reserve fund from funds appropriated by the General Assembly. The Department is authorized to transfer prize award funds attributable to Illinois sales of multi-state lottery game tickets to the multi-state control office, or its designated depository, for deposit to such game pool account or accounts as may be established by the multi-state game directors, the records of which account or accounts shall be available at all times for inspection in an audit by the Auditor General of Illinois and any other auditors pursuant to the laws of the State of Illinois. No multi-state game prize awarded to a nonresident of Illinois, with respect to a

ticket or share purchased in a state other than the State of Illinois, shall be deemed to be a prize awarded under this Act for the purpose of taxation under the Illinois Income Tax Act. All of the net revenues accruing from the sale of multi-state lottery tickets or shares shall be transferred into the Common School Fund pursuant to Section 7.2. The Department shall promulgate such rules as may be appropriate to implement the provisions of this Section.

i. To make a continuous study and investigation of (1) the operation and the administration of similar laws which may be in effect in other states or countries, (2) any literature on the subject which from time to time may be published or available, (3) any Federal laws which may affect the operation of the lottery, and (4) the reaction of Illinois citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this Act.

j. To report monthly to the State Treasurer and the Lottery Control Board a full and complete statement of lottery revenues, prize disbursements and other expenses for each month and the amounts to be transferred to the Common School Fund pursuant to Section 7.2 or such other funds as are otherwise authorized by Section 21.2 of this Act, and to make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the Board. All reports required by this subsection shall be public and copies of all such reports shall be sent to the Speaker of the House, the President of the Senate, and the minority leaders of both houses.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10) (from Ch. 120, par. 1160)

Sec. 10. The ~~Department Division~~, upon application therefor on forms prescribed by the ~~Department Division~~ Division, and upon a determination by the ~~Department Division~~ Division that the applicant meets all of the qualifications specified in this Act, shall issue a license as an agent to sell lottery tickets or shares. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent.

Before issuing such license the ~~Director Superintendent~~ shall consider (a) the financial responsibility and security of the person and his business or activity, (b) the accessibility of his place of business or activity to the public, (c) the sufficiency of existing licenses to serve the public convenience, (d) the volume of expected sales, and (e) such other factors as he or she may deem appropriate.

Until September 1, 1987, the provisions of Sections 2a, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 12 and 13.5 of the Retailers' Occupation Tax Act which are not inconsistent with this Act shall apply to the subject matter of this Act to the same extent as if such provisions were included in this Act. For purposes of this Act, references in such incorporated Sections of the Retailers' Occupation Tax Act to retailers, sellers or persons engaged in the business of selling tangible personal property mean persons engaged in selling lottery tickets or shares; references in such incorporated Sections to sales of tangible personal property mean the selling of lottery tickets or shares; and references in such incorporated Sections to certificates of registration mean licenses issued under this Act. The provisions of the Retailers' Occupation Tax Act as heretofore applied to the subject matter of this Act shall not apply with respect to tickets sold by or delivered to lottery sales agents on and after September 1, 1987, but such provisions shall continue to apply with respect to transactions involving the sale and delivery of tickets prior to September 1, 1987.

All licenses issued by the ~~Department Division~~ under this Act shall be valid for a period not to exceed 2 years after issuance unless sooner revoked, canceled or suspended as in this Act provided. No license issued under this Act shall be transferable or assignable. Such license shall be conspicuously displayed in the place of business conducted by the licensee in Illinois where lottery tickets or shares are to be sold under such license.

For purposes of this Section, the term "person" shall be construed to mean and include an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, any other person acting in a fiduciary or representative capacity who is appointed by a court, or any combination of individuals. "Person" includes any department, commission, agency or instrumentality of the State, including any county, city, village, or township and any agency or instrumentality thereof.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.1) (from Ch. 120, par. 1160.1)

Sec. 10.1. The following are ineligible for any license under this Act:

- (a) any person who has been convicted of a felony;
- (b) any person who is or has been a professional gambler or gambling promoter;
- (c) any person who has engaged in bookmaking or other forms of illegal gambling;
- (d) any person who is not of good character and reputation in the community in which he resides;
- (e) any person who has been found guilty of any fraud or misrepresentation in any connection;

(f) any firm or corporation in which a person defined in (a), (b), (c), (d) or (e) has a proprietary, equitable or credit interest of 5% or more.

(g) any organization in which a person defined in (a), (b), (c), (d) or (e) is an officer, director, or managing agent, whether compensated or not;

(h) any organization in which a person defined in (a), (b), (c), (d), or (e) is to participate in the management or sales of lottery tickets or shares.

However, with respect to persons defined in (a), the Department may grant any such person a license under this Act when:

1) at least 10 years have elapsed since the date when the sentence for the most recent such conviction was satisfactorily completed;

2) the applicant has no history of criminal activity subsequent to such conviction;

3) the applicant has complied with all conditions of probation, conditional discharge, supervision, parole or mandatory supervised release; and

4) the applicant presents at least 3 letters of recommendation from responsible citizens in his community who personally can attest that the character and attitude of the applicant indicate that he is unlikely to commit another crime.

The Department Division may revoke, without notice or a hearing, the license of any agent who violates this Act or any rule or regulation promulgated pursuant to this Act. However, if the Department Division does revoke a license without notice and an opportunity for a hearing, the Department Division shall, by appropriate notice, afford the person whose license has been revoked an opportunity for a hearing within 30 days after the revocation order has been issued. As a result of any such hearing, the Department Division may confirm its action in revoking the license, or it may order the restoration of such license.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.1a) (from Ch. 120, par. 1160.1a)

Sec. 10.1a. In addition to other grounds specified in this Act, the Department Division shall refuse to issue and shall suspend the license of any lottery sales agency who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department, until such time as the requirements of any such tax Act are satisfied, unless the agency is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. The Department Division shall affirmatively verify the tax status of every sales agency before issuing or renewing a license. For purposes of this Section, a sales agency shall not be considered delinquent in the payment of a tax if the agency (a) has entered into an agreement with the Department for the payment of all such taxes that are due and (b) is in compliance with the agreement.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.2) (from Ch. 120, par. 1160.2)

Sec. 10.2. Application and other fees. Each application for a new lottery license must be accompanied by a one-time application fee of \$50; the Department Division, however, may waive the fee for licenses of limited duration as provided by Department rule. Each application for renewal of a lottery license must be accompanied by a renewal fee of \$25. Each lottery licensee granted on-line status pursuant to the Department's rules must pay a fee of \$10 per week as partial reimbursement for telecommunications charges incurred by the Department in providing access to the lottery's on-line gaming system. The Department, by rule, may increase or decrease the amount of these fees.

(Source: P.A. 93-840, eff. 7-30-04; 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.6) (from Ch. 120, par. 1160.6)

Sec. 10.6. The Department Division shall make an effort to more directly inform players of the odds of winning prizes. This effort shall include, at a minimum, that the Department Division require all ticket agents to display a placard stating the odds of winning for each game offered by that agent.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.7)

Sec. 10.7. Compulsive gambling.

(a) Each lottery sales agent shall post a statement regarding obtaining assistance with gambling problems and including a toll-free "800" telephone number providing crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling. The text of the statement shall be determined by rule by the Department of Human Services, shall be no more than one sentence in length, and shall be posted on the placard required under Section 10.6. The signs shall be provided by the Department of Human Services.

(b) The Department Division shall print a statement regarding obtaining assistance with gambling

problems, the text of which shall be determined by rule by the Department of Human Services, on all paper stock it provides to the general public.

(c) The ~~Department Division~~ shall print a statement of no more than one sentence in length regarding obtaining assistance with gambling problems and including a toll-free "800" number providing crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling on the back of all lottery tickets.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/12) (from Ch. 120, par. 1162)

Sec. 12. The public inspection and copying of the records and data of the ~~Department Division~~ and the Board shall be generally governed by the provisions of the Freedom of Information Act except that the following shall additionally be exempt from inspection and copying:

- (i) information privileged against introduction in judicial proceedings;
- (ii) internal communications of the several agencies;
- (iii) information concerning secret manufacturing processes or confidential data submitted by any person under this Act;
- (iv) any creative proposals, scripts, storyboards or other materials prepared by or for

the ~~Department Division~~, prior to the placement of the materials in the media, if the prior release of the materials would compromise the effectiveness of an advertising campaign.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/13) (from Ch. 120, par. 1163)

Sec. 13. Except as otherwise provided in Section 13.1, no prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof remaining unpaid at the death of a prize winner, may be paid to the estate of such deceased prize winner, or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the Department along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the ~~Department Division~~ prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the ~~Director Superintendent~~ shall obtain from the trustee a written agreement to indemnify and hold the ~~Department and the Division~~ harmless with respect to any claims that may be asserted against the ~~Department or the Division~~ arising from payment to or through the trust. Notwithstanding any other provision of this Section, any person pursuant to an appropriate judicial order may be paid the prize to which a winner is entitled, and all or part of any prize otherwise payable by State warrant under this Section shall be withheld upon certification to the State Comptroller from the Department of Healthcare and Family Services as provided in Section 10-17.5 of The Illinois Public Aid Code. The ~~Director and the Superintendent~~ shall be discharged of all further liability upon payment of a prize pursuant to this Section.

(Source: P.A. 94-776, eff. 5-19-06; 95-331, eff. 8-21-07.)

(20 ILCS 1605/14) (from Ch. 120, par. 1164)

Sec. 14. No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the ~~Department or the Division~~. No person other than a licensed lottery sales agent or distributor shall sell or resell lottery tickets or shares. No person shall charge a fee to redeem a winning ticket or share.

Any person convicted of violating this Section shall be guilty of a Class B misdemeanor; provided, that if any offense under this Section is a subsequent offense, the offender shall be guilty of a Class 4 felony.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/14.3)

Sec. 14.3. Misuse of proprietary material prohibited. Except as may be provided in Section 7.11, or by bona fide sale or by prior authorization from the ~~Department or the Division~~, or otherwise by law, all premiums, promotional and other proprietary material produced or acquired by the ~~Department Division~~ as part of its advertising and promotional activities shall remain the property of the Department. Nothing herein shall be construed to affect the rights or obligations of the Department or any other person under federal or State trademark or copyright laws.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/19) (from Ch. 120, par. 1169)

Sec. 19. The ~~Department Division~~ shall establish an appropriate period for the claiming of prizes for each lottery game offered. Each claim period shall be stated in game rules and written play instructions issued by the ~~Director Superintendent~~ in accordance with Section 7.1 of this Act. Written play instructions shall be made available to all players through sales agents licensed to sell game tickets or shares. Prizes for lottery games which involve the purchase of a physical lottery ticket may be claimed

only by presentation of a valid winning lottery ticket that matches validation records on file with the Lottery; no claim may be honored which is based on the assertion that the ticket was lost or stolen. No lottery ticket which has been altered, mutilated, or fails to pass validation tests shall be deemed to be a winning ticket.

If no claim is made for the money within the established claim period, the prize may be included in the prize pool of such special drawing or drawings as the Department ~~Division~~ may, from time to time, designate. Unclaimed multi-state game prize money may be included in the multi-state prize pool for such special drawing or drawings as the multi-state game directors may, from time to time, designate. Any bonuses offered by the Department to sales agents who sell winning tickets or shares shall be payable to such agents regardless of whether or not the prize money on the ticket or share is claimed, provided that the agent can be identified as the vendor of the winning ticket or share, and that the winning ticket or share was sold on or after January 1, 1984. All unclaimed prize money not included in the prize pool of a special drawing shall be transferred to the Common School Fund.  
(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/21) (from Ch. 120, par. 1171)

Sec. 21. All lottery sales agents or distributors shall be liable to the Lottery for any and all tickets accepted or generated by any employee or representative of that agent or distributor, and such tickets shall be deemed to have been purchased by the agent or distributor unless returned to the Lottery within the time and in the manner prescribed by the Director ~~Superintendent~~. All moneys received by such agents or distributors from the sale of lottery tickets or shares, less the amount retained as compensation for the sale of the tickets or shares and the amount paid out as prizes, shall be paid over to a lottery representative or deposited in a bank or savings and loan association approved by the State Treasurer, as prescribed by the Director ~~Superintendent~~.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of the Public Funds Investment Act.

Each payment or deposit shall be accompanied by a report of the agent's receipts and transactions in the sale of lottery tickets in such form and containing such information as the Director ~~Superintendent~~ may require. Any discrepancies in such receipts and transactions may be resolved as provided by the rules and regulations of the Department.

If any money due the Lottery by a sales agent or distributor is not paid when due or demanded, it shall immediately become delinquent and be billed on a subsequent monthly statement. If on the closing date for any monthly statement a delinquent amount previously billed of more than \$50 remains unpaid, interest in such amount shall be accrued at the rate of 2% per month or fraction thereof from the date when such delinquent amount becomes past due until such delinquent amount, including interest, penalty and other costs and charges that the Department may incur in collecting such amounts, is paid. In case any agent or distributor fails to pay any moneys due the Lottery within 30 days after a second bill or statement is rendered to the agent or distributor, such amount shall be deemed seriously delinquent and may be referred by the Department to a collection agency or credit bureau for collection. Any contract entered into by the Department for the collection of seriously delinquent accounts with a collection agency or credit bureau may be satisfied by a commercially reasonable percentage of the delinquent account recouped, which shall be negotiated by the Department in accordance with commercially accepted standards. Any costs incurred by the Department or others authorized to act in its behalf in collecting such delinquencies may be assessed against the agent or distributor and included as a part of the delinquent account.

In case of failure of an agent or distributor to pay a seriously delinquent amount, or any portion thereof, including interest, penalty and costs, the Department ~~Division~~ may issue a Notice of Assessment. In determining amounts shown on the Notice of Assessment, the Department ~~Division~~ shall utilize the financial information available from its records. Such Notice of Assessment shall be prima facie correct and shall be prima facie evidence of delinquent sums due under this Section at any hearing before the Board, or its Hearing Officers, or at any other legal proceeding. Reproduced copies of the Department's ~~Division's~~ records relating to a delinquent account or a Notice of Assessment offered in the name of the Department, under the Certificate of the Director or any officer or employee of the Department designated in writing by the Director shall, without further proof, be admitted into evidence in any such hearing or any legal proceeding and shall be prima facie proof of the delinquency, including principal and any interest, penalties and costs, as shown thereon. The Attorney General may bring suit on behalf of the Department to collect all such delinquent amounts, or any portion thereof, including interest, penalty and costs, due the Lottery.

Any person who accepts money that is due to the Department from the sale of lottery tickets under this

Act, but who wilfully fails to remit such payment to the Department when due or who purports to make such payment but wilfully fails to do so because his check or other remittance fails to clear the bank or savings and loan association against which it is drawn, in addition to the amount due and in addition to any other penalty provided by law, shall be assessed, and shall pay, a penalty equal to 5% of the deficiency plus any costs or charges incurred by the Department in collecting such amount.

The Director may make such arrangements for any person(s), banks, savings and loan associations or distributors, to perform such functions, activities or services in connection with the operation of the lottery as he deems advisable pursuant to this Act, the State Comptroller Act, or the rules and regulations of the Department, and such functions, activities or services shall constitute lawful functions, activities and services of such person(s), banks, savings and loan associations or distributors.

All income arising out of any activity or purpose of the ~~Department Division~~ shall, pursuant to the State Finance Act, be paid into the State Treasury except as otherwise provided by the rules and regulations of the Department and shall be covered into a special fund to be known as the State Lottery Fund. Banks and savings and loan associations may be compensated for services rendered based upon the activity and amount of funds on deposit.

(Source: P.A. 94-776, eff. 5-19-06.)

Section 1025. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Sections 2310-347 and 2310-348 as follows:

(20 ILCS 2310/2310-347)

Sec. 2310-347. The Ticket For The Cure Board.

(a) The Ticket For The Cure Board is created as an advisory board within the Department. The Board shall consist of 10 members as follows: 2 members appointed by the President of the Senate; 2 members appointed by the Minority Leader of the Senate; 2 members appointed by the Speaker of the House of Representatives; 2 members appointed by the Minority Leader of the House of Representatives; and 2 members appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated as chair of the Board at the time of appointment.

If a vacancy occurs in the Board membership, the vacancy shall be filled in the same manner as the initial appointment.

(b) Board members shall serve without compensation but may be reimbursed for their reasonable travel expenses from funds available for that purpose. The Department shall provide staff and administrative support services to the Board.

(c) The Board must:

(i) consult with the Department of ~~the Lottery Revenue~~ in designing and promoting the Ticket For The Cure

special instant scratch-off lottery game; and

(ii) review grant applications, make recommendations and comments, and consult with the Department of Public Health in making grants, from amounts appropriated from the Ticket For The Cure Fund, to public or private entities in Illinois for the purpose of funding research concerning breast cancer and for funding services for breast cancer victims in accordance with Section 21.5 of the Illinois Lottery Law.

(d) The Board is discontinued on June 30, 2012.

(Source: P.A. 94-120, eff. 7-6-05.)

(20 ILCS 2310/2310-348)

Sec. 2310-348. The Quality of Life Board.

(a) The Quality of Life Board is created as an advisory board within the Department. The Board shall consist of 11 members as follows: 2 members appointed by the President of the Senate; one member appointed by the Minority Leader of the Senate; 2 members appointed by the Speaker of the House of Representatives; one member appointed by the Minority Leader of the House of Representatives; 2 members appointed by the Governor, one of whom shall be designated as chair of the Board at the time of appointment; and 3 members appointed by the Director who represent organizations that advocate for the healthcare needs of the first and second highest HIV/AIDS risk groups, one each from the northern Illinois region, the central Illinois region, and the southern Illinois region.

The Board members shall serve one 2-year term. If a vacancy occurs in the Board membership, the vacancy shall be filled in the same manner as the initial appointment.

(b) Board members shall serve without compensation but may be reimbursed for their reasonable travel expenses from funds appropriated for that purpose. The Department shall provide staff and administrative support services to the Board.

(c) The Board must:

(i) consult with the Department of ~~the Lottery Revenue~~ in designing and promoting the Quality of Life

special instant scratch-off lottery game; and

(ii) review grant applications, make recommendations and comments, and consult with the Department of Public Health in making grants, from amounts appropriated from the Quality of Life Endowment Fund, to public or private entities in Illinois for the purpose of HIV/AIDS-prevention education and for making grants to public or private entities in Illinois for the purpose of funding organizations that serve the highest at-risk categories for contracting HIV or developing AIDS in accordance with Section 21.7 of the Illinois Lottery Law.

(d) The Board is discontinued on June 30, 2013.

(Source: P.A. 95-674, eff. 10-11-07.)

(20 ILCS 3948/Act rep.)

Section 1035. On July 1, 2009, the Illinois Global Partnership Act is repealed.

Section 1036. The Illinois Municipal Code is amended by changing Section 8-12-12 as follows:

(65 ILCS 5/8-12-12) (from Ch. 24, par. 8-12-12)

Sec. 8-12-12. (a) The Governor shall call the first meeting of the Authority. Thereafter, the Directors shall prescribe the times and places for their meetings and the manner in which regular and special meetings may be called. The Directors shall comply in all respects with the Open Meetings Act. The Authority shall be a public body to which The Freedom of Information Act applies.

(b) ~~Three A majority of the Directors holding office~~ shall constitute a quorum for the conduct of business. The affirmative votes of at least 3 Directors shall be necessary for adopting any rule or regulation, and for any other action required by this Division to be taken by resolution, directive or ordinance.

(Source: P.A. 86-1211.)

Section 1045. The School Code is amended by changing Sections 1A-1, 1A-2, and 1A-4 as follows:

(105 ILCS 5/1A-1) (from Ch. 122, par. 1A-1)

Sec. 1A-1. Members and terms.

(a) (Blank).

(b) The State Board of Education shall consist of 8 members and a chairperson, who shall be appointed by the Governor with the advice and consent of the Senate from a pattern of regional representation as follows: 2 appointees shall be selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County; 2 appointees shall be selected from Cook County, one of whom shall be a resident of the City of Chicago and one of whom shall be a resident of that part of Cook County which lies outside the city limits of Chicago; 2 appointees shall be selected from among the 5 counties of the State that are contiguous to Cook County; and 3 members shall be selected as members-at-large (one of which shall be the chairperson). ~~The Governor who takes office on the second Monday of January after his or her election shall be the person who nominates members to fill vacancies whose terms begin after that date and before the term of the next Governor begins.~~

Notwithstanding the Officials and Employees Termination Act of 2009, the terms of all members appointed by the Governor end on the effective date of this amendatory Act of the 96th General Assembly, and those members may not hold over in office for more than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The initial appointees of the Governor on or after the effective date of this amendatory Act of the 96th General Assembly shall serve terms as follows:

(1) One of the members who is selected as a member-at-large and who is not the chairperson and one of the members who is selected from among the 5 counties of the State that are contiguous to Cook County shall serve until June 30, 2010 and until their respective successors are appointed and have qualified.

(2) The member who is selected from Cook County and who is a resident of the City of Chicago and the member who is selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County shall serve until June 30, 2011 and until their respective successors are appointed and have qualified.

(3) The other member who is selected as a member-at-large and who is not the chairperson and the other member who is selected from among the 5 counties of the State that are contiguous to Cook County shall serve until June 30, 2012 and until their respective successors are appointed and have qualified.

(4) The member who is selected from Cook County and who is a resident of that part of Cook

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County that lies outside the city limits of Chicago and the other member who is selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County shall serve until June 30, 2013 and until their respective successors are appointed and have qualified.

(5) The member who is selected as a member-at-large and who is the chairperson shall serve until June 30, 2014. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

After the initial terms, members appointed by the Governor shall serve 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year and until their respective successors are appointed and have qualified. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

The term of each member of the State Board of Education whose term expires on January 12, 2005 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. Of these 3 seats, (i) the member initially appointed pursuant to this amendatory Act of the 93rd General Assembly whose seat was vacant on April 27, 2004 shall serve until the second Wednesday of January, 2009 and (ii) the other 2 members initially appointed pursuant to this amendatory Act of the 93rd General Assembly shall serve until the second Wednesday of January, 2007.

The term of the member of the State Board of Education whose seat was vacant on April 27, 2004 and whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall be the chairperson and shall serve until the second Wednesday of January, 2007.

The term of the member of the State Board of Education whose seat was vacant on May 28, 2004 but after April 27, 2004 and whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2007.

The term of the other member of the State Board of Education whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2007.

The term of the member of the State Board of Education whose term expires on January 14, 2009 and who was selected from among the 5 counties of the State that are contiguous to Cook County and is a resident of Lake County shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2009.

Upon expiration of the terms of the members initially appointed under this amendatory Act of the 93rd General Assembly and members whose terms were not terminated by this amendatory Act of the 93rd General Assembly, their respective successors shall be appointed for terms of 4 years, from the second Wednesday in January of each odd numbered year and until their respective successors are appointed and qualified.

(c) ~~At~~ Of the 4 members, excluding the chairperson, whose terms expire on the second Wednesday of January, 2007 and every 4 years thereafter, one of those members must be an at large member and at no time may more than ~~5~~ 2 of those members be from one political party. ~~Of the 4 members whose terms expire on the second Wednesday of January, 2009 and every 4 years thereafter, one of those members must be an at large member and at no time may more than 2 of those members be from one political party.~~ Party membership is defined as having voted in the primary of the party in the last primary before appointment.

(d) Vacancies in terms shall be filled by appointment by the Governor with the advice and consent of the Senate for the extent of the unexpired term. If a vacancy in membership occurs at a time when the Senate is not in session, the Governor shall make a temporary appointment until the next meeting of the Senate, when the Governor shall appoint a person to fill that membership for the remainder of its term. If the Senate is not in session when appointments for a full term are made, the appointments shall be made as in the case of vacancies.

(Source: P.A. 93-1036, eff. 9-14-04.)

(105 ILCS 5/1A-2) (from Ch. 122, par. 1A-2)

Sec. 1A-2. Qualifications. The members of the State Board of Education shall be citizens of the United States and residents of the State of Illinois and shall be selected as far as may be practicable on the basis of their knowledge of, or interest and experience in, problems of public education. No member of the State Board of Education shall be gainfully employed or administratively connected with any

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school system, nor have any interest in or benefit from funds provided by the State Board of Education to an institution of higher learning, public or private, within Illinois, nor shall they be members of a school board or board of school trustees of a public or nonpublic school, college, university or technical institution within Illinois. No member shall be appointed to more than 2 full six-year terms. Members shall be reimbursed for all ordinary and necessary expenses incurred in performing their duties as members of the Board. Expenses shall be approved by the Board and be consistent with the laws, policies, and requirements of the State of Illinois regarding such expenditures, plus any member may include in his claim for expenses \$50 per day for meeting days.

(Source: P.A. 90-548, eff. 1-1-98; revised 10-23-08.)

(105 ILCS 5/1A-4) (from Ch. 122, par. 1A-4)

Sec. 1A-4. Powers and duties of the Board.

A. (Blank).

B. The Board shall determine the qualifications of and appoint a chief education officer, to be known as the State Superintendent of Education, who may be proposed by the Governor and who shall serve at the pleasure of the Board and pursuant to a performance-based contract linked to statewide student performance and academic improvement within Illinois schools. Upon expiration or buyout of the contract of the State Superintendent of Education in office on the effective date of this amendatory Act of the 93rd General Assembly, a State Superintendent of Education shall be appointed by a State Board of Education that includes the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory Act of the 93rd General Assembly. Thereafter, a State Superintendent of Education must, at a minimum, be appointed at the beginning of each term of a Governor after that Governor has made appointments to the Board. A performance-based contract issued for the employment of a State Superintendent of Education entered into on or after the effective date of this amendatory Act of the 93rd General Assembly must expire no later than February 1, 2007, and subsequent contracts must expire no later than February 1 each 4 years thereafter. No contract shall be extended or renewed beyond February 1, 2007 and February 1 each 4 years thereafter, but a State Superintendent of Education shall serve until his or her successor is appointed. Any such contract entered into during the last 9 months of a Governor's term of office must expire no later than at the end of that term of office. Each contract entered into on or before January 8, 2007 with a State Superintendent of Education must provide that the State Board of Education may terminate the contract for cause, and the State Board of Education shall not thereafter be liable for further payments under the contract. With regard to this amendatory Act of the 93rd General Assembly, it is the intent of the General Assembly that, beginning with the Governor who takes office on the second Monday of January, 2007, a State Superintendent of Education be appointed at the beginning of each term of a Governor after that Governor has made appointments to the Board. The State Superintendent of Education shall not serve as a member of the State Board of Education. The Board shall set the compensation of the State Superintendent of Education who shall serve as the Board's chief executive officer. The Board shall also establish the duties, powers and responsibilities of the State Superintendent, which shall be included in the State Superintendent's performance-based contract along with the goals and indicators of student performance and academic improvement used to measure the performance and effectiveness of the State Superintendent. The State Board of Education may delegate to the State Superintendent of Education the authority to act on the Board's behalf, provided such delegation is made pursuant to adopted board policy or the powers delegated are ministerial in nature. The State Board may not delegate authority under this Section to the State Superintendent to (1) nonrecognize school districts, (2) withhold State payments as a penalty, or (3) make final decisions under the contested case provisions of the Illinois Administrative Procedure Act unless otherwise provided by law.

C. The powers and duties of the State Board of Education shall encompass all duties delegated to the Office of Superintendent of Public Instruction on January 12, 1975, except as the law providing for such powers and duties is thereafter amended, and such other powers and duties as the General Assembly shall designate. The Board shall be responsible for the educational policies and guidelines for public schools, pre-school through grade 12 and Vocational Education in the State of Illinois. The Board shall analyze the present and future aims, needs, and requirements of education in the State of Illinois and recommend to the General Assembly the powers which should be exercised by the Board. The Board shall recommend the passage and the legislation necessary to determine the appropriate relationship between the Board and local boards of education and the various State agencies and shall recommend desirable modifications in the laws which affect schools.

D. Two members of the Board shall be appointed by the chairperson to serve on a standing joint Education Committee, 2 others shall be appointed from the Board of Higher Education, 2 others shall be appointed by the chairperson of the Illinois Community College Board, and 2 others shall be appointed

by the chairperson of the Human Resource Investment Council. The Committee shall be responsible for making recommendations concerning the submission of any workforce development plan or workforce training program required by federal law or under any block grant authority. The Committee will be responsible for developing policy on matters of mutual concern to elementary, secondary and higher education such as Occupational and Career Education, Teacher Preparation and Certification, Educational Finance, Articulation between Elementary, Secondary and Higher Education and Research and Planning. The joint Education Committee shall meet at least quarterly and submit an annual report of its findings, conclusions, and recommendations to the State Board of Education, the Board of Higher Education, the Illinois Community College Board, the Human Resource Investment Council, the Governor, and the General Assembly. All meetings of this Committee shall be official meetings for reimbursement under this Act. On the effective date of this amendatory Act of the 95th General Assembly, the Joint Education Committee is abolished.

E. Five members of the Board shall constitute a quorum. A majority vote of the members appointed, confirmed and serving on the Board is required to approve any action, except that the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory act of the 93rd General Assembly may vote to approve actions when appointed and serving.

Using the most recently available data, the Board shall prepare and submit to the General Assembly and the Governor on or before January 14, 1976 and annually thereafter a report or reports of its findings and recommendations. Such annual report shall contain a separate section which provides a critique and analysis of the status of education in Illinois and which identifies its specific problems and recommends express solutions therefor. Such annual report also shall contain the following information for the preceding year ending on June 30: each act or omission of a school district of which the State Board of Education has knowledge as a consequence of scheduled, approved visits and which constituted a failure by the district to comply with applicable State or federal laws or regulations relating to public education, the name of such district, the date or dates on which the State Board of Education notified the school district of such act or omission, and what action, if any, the school district took with respect thereto after being notified thereof by the State Board of Education. The report shall also include the statewide high school dropout rate by grade level, sex and race and the annual student dropout rate of and the number of students who graduate from, transfer from or otherwise leave bilingual programs. The Auditor General shall annually perform a compliance audit of the State Board of Education's performance of the reporting duty imposed by this amendatory Act of 1986. A regular system of communication with other directly related State agencies shall be implemented.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Council, as required by Section 3.1 of the General Assembly Organization Act, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

F. Upon appointment of the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory Act of the 93rd General Assembly, the Board shall review all of its current rules in an effort to streamline procedures, improve efficiency, and eliminate unnecessary forms and paperwork.

(Source: P.A. 95-626, eff. 6-1-08; 95-793, eff. 1-1-09.)

Section 1060. The Acupuncture Practice Act is amended by changing Section 35 as follows:  
(225 ILCS 2/35)

(Section scheduled to be repealed on January 1, 2018)

Sec. 35. Board of Acupuncture. The Secretary shall appoint a Board of Acupuncture to consist of 7 persons who shall be appointed by and shall serve in an advisory capacity to the Secretary. Four members must hold an active license to engage in the practice of acupuncture in this State, one member shall be a chiropractic physician licensed under the Medical Practice Act of 1987 who is actively engaged in the practice of acupuncture, one member shall be a physician licensed to practice medicine in all of his branches in Illinois, and one member must be a member of the public who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with the profession.

Members shall serve 4-year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 consecutive years. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Initial terms shall begin upon the

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effective date of this amendatory Act of 1997.

The Board may annually elect a chairperson and a vice-chairperson who shall preside in the absence of the chairperson. The membership of the Board should reasonably reflect representation from the geographic areas in this State. The Secretary may terminate the appointment of any member for cause. The Secretary may give due consideration to all recommendations of the Board. Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the right and perform all the duties of the Board. Members of the Board shall have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.  
(Source: P.A. 95-450, eff. 8-27-07.)

Section 1070. The Clinical Psychologist Licensing Act is amended by changing Section 7 as follows:  
(225 ILCS 15/7) (from Ch. 111, par. 5357)

(Section scheduled to be repealed on January 1, 2017)

Sec. 7. Board. The Secretary shall appoint a Board that shall serve in an advisory capacity to the Secretary.

The Board shall consist of 7 persons, 4 of whom are licensed clinical psychologists, and actively engaged in the practice of clinical psychology, 2 of whom are licensed clinical psychologists and are full time faculty members of accredited colleges or universities who are engaged in training clinical psychologists, and one of whom is a public member who is not a licensed health care provider. In appointing members of the Board, the Secretary shall give due consideration to the adequate representation of the various fields of health care psychology such as clinical psychology, school psychology and counseling psychology. In appointing members of the Board, the Secretary shall give due consideration to recommendations by members of the profession of clinical psychology and by the State-wide organizations representing the interests of clinical psychologists and organizations representing the interests of academic programs as well as recommendations by approved doctoral level psychology programs in the State of Illinois. The members shall be appointed for a term of 4 years. No member shall be eligible to serve for more than 2 full terms. Any appointment to fill a vacancy shall be for the unexpired portion of the term. A member appointed to fill a vacancy for an unexpired term for a duration of 2 years or more may be reappointed for a maximum of one term and a member appointed to fill a vacancy for an unexpired term for a duration of less than 2 years may be reappointed for a maximum of 2 terms. The Secretary may remove any member for cause at any time prior to the expiration of his or her term.

The Board shall annually elect one of its members as chairperson and vice chairperson.

The members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

The Secretary shall give due consideration to all recommendations of the Board. In the event the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of his or her actions.

Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

Members of the Board shall have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.

The Secretary may terminate the appointment of any member for cause which in the opinion of the Secretary reasonably justifies such termination.

(Source: P.A. 93-745, eff. 7-15-04; 94-870, eff. 6-16-06.)

Section 1080. The Clinical Social Work and Social Work Practice Act is amended by changing Section 6 as follows:

(225 ILCS 20/6) (from Ch. 111, par. 6356)

(Section scheduled to be repealed on January 1, 2018)

Sec. 6. Social Work Examining and Disciplinary Board.

(1) The Secretary shall appoint a Social Work Examining and Disciplinary Board consisting of 9 persons who shall serve in an advisory capacity to the Secretary. The Board shall be composed of 6 licensed clinical social workers, one of whom shall be employed in a public human service agency, one of whom shall be a certified school social worker, one of whom shall be employed in the private not-for-profit sector and one of whom shall serve as the chairperson, two licensed social workers, and

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one member of the public who is not regulated under this Act or a similar Act and who clearly represents consumer interests.

(2) Members shall serve for a term of 4 years and until their successors are appointed and qualified. No member shall be reappointed if such reappointment would cause that person's service on the Board to be longer than 8 successive years. Appointments to fill vacancies for the unexpired portion of a vacated term shall be made in the same manner as original appointments.

(3) The membership of the Board should represent racial and cultural diversity and reasonably reflect representation from different geographic areas of Illinois.

(4) The Secretary may terminate the appointment of any member for cause.

(5) The Secretary shall consider the recommendation of the Board on all matters and questions relating to this Act.

(6) The Board is charged with the duties and responsibilities of recommending to the Secretary the adoption of all policies, procedures and rules which may be required or deemed advisable in order to perform the duties and functions conferred on the Board, the Secretary and the Department to carry out the provisions of this Act.

(7) The Board may make recommendations on all matters relating to continuing education including the number of hours necessary for license renewal, waivers for those unable to meet such requirements and acceptable course content. Such recommendations shall not impose an undue burden on the Department or an unreasonable restriction on those seeking license renewal.

(8) The Board shall annually elect one of its members as chairperson and one as vice chairperson.

(9) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

(10) ~~Five members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. ~~The affirmative vote of at least 5 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

(11) Members of the Board shall have no liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board.

(Source: P.A. 95-687, eff. 10-23-07.)

Section 1090. The Home Medical Equipment and Services Provider License Act is amended by changing Section 25 as follows:

(225 ILCS 51/25)

(Section scheduled to be repealed on January 1, 2018)

Sec. 25. Home Medical Equipment and Services Board. The Secretary shall appoint a Home Medical Equipment and Services Board, in consultation with a state association representing the home medical equipment and services industry, to serve in an advisory capacity to the Secretary. The Board shall consist of 7 members. Four members shall be home medical equipment and services provider representatives, at least one of whom shall be a pharmacy-based provider. The 3 remaining members shall include one home care clinical specialist, one respiratory care practitioner, and one public member.

Members shall serve 4 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to exceed 8 years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The home medical equipment and services provider representatives appointed to the Board shall have engaged in the provision of home medical equipment and services or related home care services for at least 3 years prior to their appointment, shall be currently engaged in providing home medical equipment and services in the State of Illinois, and must have no record of convictions related to fraud or abuse under either State or federal law.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

The Board shall annually elect one of its members as chairperson and vice chairperson.

Members of the Board shall receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and shall be reimbursed for authorized expenses incurred in performing the duties of the office.

The Secretary may terminate the appointment of any member for cause which in the opinion of the Secretary reasonably justifies the termination.

Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

~~Four members of the Board~~ ~~A majority of Board members currently appointed~~ shall constitute a

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quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the rights of a quorum to exercise the rights and perform all of the duties of the Board.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 1100. The Marriage and Family Therapy Licensing Act is amended by changing Section 25 as follows:

(225 ILCS 55/25) (from Ch. 111, par. 8351-25)

(Section scheduled to be repealed on January 1, 2018)

Sec. 25. Marriage and Family Therapy Licensing and Disciplinary Board.

(a) There is established within the Department the Marriage and Family Therapy Licensing and Disciplinary Board to be appointed by the Secretary. The Board shall be composed of 7 persons who shall serve in an advisory capacity to the Secretary. The Board shall elect a chairperson and a vice chairperson.

(b) In appointing members of the Board, the Secretary shall give due consideration to recommendations by members of the profession of marriage and family therapy and by the statewide organizations solely representing the interests of marriage and family therapists.

(c) Five members of the Board shall be marriage and family therapists who have been in active practice for at least 5 years immediately preceding their appointment, or engaged in the education and training of masters, doctoral, or post-doctoral students of marriage and family therapy, or engaged in marriage and family therapy research. Each marriage or family therapy teacher or researcher shall have spent the majority of the time devoted to the study or research of marriage and family therapy during the 2 years immediately preceding his or her appointment to the Board. The appointees shall be licensed under this Act.

(d) Two members shall be representatives of the general public who have no direct affiliation or work experience with the practice of marriage and family therapy and who clearly represent consumer interests.

(e) Board members shall be appointed for terms of 4 years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he or she shall succeed. Upon the expiration of this term of office, a Board member shall continue to serve until a successor is appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years.

(f) The membership of the Board shall reasonably reflect representation from the various geographic areas of the State.

(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(h) The Secretary may remove any member of the Board for any cause that, in the opinion of the Secretary, reasonably justifies termination.

(i) The Secretary may consider the recommendations of the Board on questions of standards of professional conduct, discipline, and qualification of candidates or licensees under this Act.

(j) The members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses.

(k) ~~Four members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 1110. The Nurse Practice Act is amended by changing Section 75-15 as follows:

(225 ILCS 65/75-15) (was 225 ILCS 65/17-15)

(Section scheduled to be repealed on January 1, 2018)

Sec. 75-15. Center for Nursing Advisory Board.

(a) There is created the Center for Nursing Advisory Board, which shall consist of 11 members appointed by the Governor, with 6 members of the Advisory Board being nurses representative of various nursing specialty areas. The other 5 members may include representatives of associations, health care providers, nursing educators, and consumers. The Advisory Board shall be chaired by the Nursing Act Coordinator, who shall be a voting member of the Advisory Board.

(b) The membership of the Advisory Board shall reasonably reflect representation from the geographic areas in this State.

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(c) Members of the Advisory Board appointed by the Governor shall serve for terms of 4 years, with no member serving more than 10 successive years, except that, initially, 4 members shall be appointed to the Advisory Board for terms that expire on June 30, 2009, 4 members shall be appointed to the Advisory Board for terms that expire on June 30, 2008, and 3 members shall be appointed to the Advisory Board for terms that expire on June 30, 2007. A member shall serve until his or her successor is appointed and has qualified. Vacancies shall be filled in the same manner as original appointments, and any member so appointed shall serve during the remainder of the term for which the vacancy occurred.

(d) A quorum of the Advisory Board shall consist of 6 members ~~a majority of Advisory Board members currently serving~~. The affirmative vote of at least 6 members is required for Advisory Board decisions. ~~A majority vote of the quorum is required for Advisory Board decisions.~~ A vacancy in the membership of the Advisory Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Advisory Board.

(e) The Governor may remove any appointed member of the Advisory Board for misconduct, incapacity, or neglect of duty and shall be the sole judge of the sufficiency of the cause for removal.

(f) Members of the Advisory Board are immune from suit in any action based upon any activities performed in good faith as members of the Advisory Board.

(e) Members of the Advisory Board shall not receive compensation, but shall be reimbursed for actual traveling, incidentals, and expenses necessarily incurred in carrying out their duties as members of the Advisory Board, as approved by the Department.

(Source: P.A. 94-1020, eff. 7-11-06; 95-639, eff. 10-5-07.)

Section 1120. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Section 5 as follows:

(225 ILCS 70/5) (from Ch. 111, par. 3655)

(Section scheduled to be repealed on January 1, 2018)

Sec. 5. Board.

(a) There is hereby created the Nursing Home Administrators Licensing and Disciplinary Board. The Board shall consist of 7 members appointed by the Governor. All shall be residents of the State of Illinois. Two members shall be representatives of the general public. Five members shall be nursing home administrators who for at least 5 years prior to their appointments were licensed under this Act. The public members shall have no responsibility for management or formation of policy of, nor any financial interest in, nursing homes as defined in this Act, nor any other connection with the profession. In appointing licensed nursing home administrators, the Governor shall take into consideration the recommendations of the nursing home professional associations.

(b) Members shall be appointed for a term of 4 years by the Governor. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Board may be removed by the Governor for cause. Each member shall serve on the Board until his or her successor is appointed and qualified. No member of the Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various geographic regions of the State of Illinois are properly represented.

(c) The Board shall annually elect one of its members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until his or her successor has been elected and qualified.

(d) Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(e) Each member and member-officer of the Board may receive a per diem stipend as the Secretary shall determine. Each member shall be paid their necessary expenses while engaged in the performance of his or her duties.

(f) (Blank).

(g) (Blank).

(h) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(i) (Blank).

(j) The Secretary shall give due consideration to all recommendations of the Board. If the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of his or her action.

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(Source: P.A. 95-703, eff. 12-31-07.)

Section 1130. The Illinois Optometric Practice Act of 1987 is amended by changing Section 11 as follows:

(225 ILCS 80/11) (from Ch. 111, par. 3911)

(Section scheduled to be repealed on January 1, 2017)

Sec. 11. Optometric Licensing and Disciplinary Board. The Secretary shall appoint an Illinois Optometric Licensing and Disciplinary Board as follows: Seven persons who shall be appointed by and shall serve in an advisory capacity to the Secretary. Five members must be lawfully and actively engaged in the practice of optometry in this State, one member shall be a licensed optometrist, with a full-time faculty appointment with the Illinois College of Optometry, and one member must be a member of the public who shall be a voting member and is not licensed under this Act, or a similar Act of another jurisdiction, or have any connection with the profession. Neither the public member nor the faculty member shall participate in the preparation or administration of the examination of applicants for licensure or certification.

Members shall serve 4-year terms and until their successors are appointed and qualified. No member shall be appointed to the Board for more than 2 successive 4-year terms, not counting any partial terms when appointed to fill the unexpired portion of a vacated term. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The Board shall annually elect a chairperson and a vice-chairperson, both of whom shall be licensed optometrists.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

~~Four members of the Board. A majority of the Board members currently appointed shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

The Secretary may terminate the appointment of any member for cause.

The Secretary shall give due consideration to all recommendations of the Board, and in the event that the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of this action. None of the functions, powers or duties of the Department with respect to policy matters relating to licensure, discipline, and examination, including the promulgation of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Board.

Without, in any manner, limiting the power of the Department to conduct investigations, the Board may recommend to the Secretary that one or more licensed optometrists be selected by the Secretary to conduct or assist in any investigation pursuant to this Act. Such licensed optometrist may receive remuneration as determined by the Secretary.

(Source: P.A. 94-787, eff. 5-19-06.)

Section 1140. The Pharmacy Practice Act is amended by changing Section 10 as follows:

(225 ILCS 85/10) (from Ch. 111, par. 4130)

(Section scheduled to be repealed on January 1, 2018)

Sec. 10. State Board of Pharmacy. There is created in the Department the State Board of Pharmacy. It shall consist of 9 members, 7 of whom shall be licensed pharmacists. Each of those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college of pharmacy or hold a Bachelor of Science degree in Pharmacy and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure as a licensed pharmacist in the State of Illinois. There shall be 2 public members, who shall be voting members, who shall not be licensed pharmacists in this State or any other state.

Each member shall be appointed by the Governor.

Members shall be appointed to 5 year terms. The Governor shall fill any vacancy for the remainder of the unexpired term. Partial terms over 3 years in length shall be considered full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms in his or her lifetime.

In making the appointment of members on the Board, the Governor shall give due consideration to recommendations by the members of the profession of pharmacy and by pharmacy organizations therein. The Governor shall notify the pharmacy organizations promptly of any vacancy of members on the Board and in appointing members shall give consideration to individuals engaged in all types and settings of pharmacy practice.

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The Governor may remove any member of the Board for misconduct, incapacity or neglect of duty and he shall be the sole judge of the sufficiency of the cause for removal.

Each member of the Board shall be reimbursed for such actual and legitimate expenses as he may incur in going to and from the place of meeting and remaining thereat during sessions of the Board. In addition, each member of the Board may receive a per diem payment in an amount determined from time to time by the Director for attendance at meetings of the Board and conducting other official business of the Board.

The Board shall hold quarterly meetings at such times and places and upon notice as the Department may determine and as its business may require. ~~Five members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

The Board shall exercise the rights, powers and duties which have been vested in the Board under this Act, and any other duties conferred upon the Board by law.  
(Source: P.A. 95-689, eff. 10-29-07.)

Section 1150. The Podiatric Medical Practice Act of 1987 is amended by changing Section 7 as follows:

(225 ILCS 100/7) (from Ch. 111, par. 4807)

(Section scheduled to be repealed on January 1, 2018)

Sec. 7. Creation of the Board. The Secretary shall appoint a Podiatric Medical Licensing Board as follows: 5 members must be actively engaged in the practice of podiatric medicine in this State for a minimum of 3 years and one member must be a member of the general public who is not licensed under this Act or a similar Act of another jurisdiction.

Members shall serve 3 year terms and serve until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 successive years.

~~Four members of the Board~~ ~~A majority of Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all of the duties of the Board.

In making appointments to the Board the Secretary shall give due consideration to recommendations by the Illinois Podiatric Medical Association and shall promptly give due notice to the Illinois Podiatric Medical Association of any vacancy in the membership of the Board.

Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The Board shall annually elect a chairperson and vice-chairperson.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

The members of the Board may receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the Board.

The Secretary may terminate the appointment of any member for cause that in the opinion of the Secretary reasonably justifies such termination.

The Secretary shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of candidates and licensees under this Act.

Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in the response. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

(Source: P.A. 95-235, eff. 8-17-07.)

Section 1160. The Professional Boxing Act is amended by changing Section 2 as follows:

(225 ILCS 105/2) (from Ch. 111, par. 5002)

(Section scheduled to be repealed on January 1, 2012)

Sec. 2. State Professional Boxing Board. There is created the State Professional Boxing Board consisting of 6 persons who shall be appointed by and shall serve in an advisory capacity to the Director.

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One shall be a physician licensed to practice medicine in all of its branches. The Director shall appoint each member to serve for a term of 3 years and until his or her successor is appointed and qualified. One member of the board shall be designated as the Chairperson and one member shall be designated as the Vice-chairperson. No member shall be appointed to the Board for a term which would cause continuous service to be more than 9 years. Service prior to January 1, 2000 shall not be considered in calculating length of service on the Board. Each member of the board shall receive compensation for each day he or she is engaged in transacting the business of the board and, in addition, shall be reimbursed for his or her authorized and approved expenses necessarily incurred in relation to such service in accordance with the travel regulations applicable to the Department at the time the expenses are incurred.

~~Four members of the Board. A majority of the current members appointed shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions.~~

The members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

The Director may remove any member of the Board for misconduct, incapacity, or neglect of duty. The Director shall reduce to writing any causes for removal.

(Source: P.A. 91-408, eff. 1-1-00; 92-499, eff. 1-1-02.)

Section 1170. The Professional Counselor and Clinical Professional Counselor Licensing Act is amended by changing Section 30 as follows:

(225 ILCS 107/30) (from Ch. 111, par. 8451-30)

(Section scheduled to be repealed on January 1, 2013)

Sec. 30. Professional Counselor Examining and Disciplinary Board.

(a) The Director shall appoint a Board which shall serve in an advisory capacity to the Director. The Board shall consist of 7 persons, 2 of whom are licensed solely as professional counselors, 3 of whom are licensed solely as clinical professional counselors, one full-time faculty member of an accredited college or university that is engaged in training professional counselors or clinical professional counselors who possesses the qualifications substantially equivalent to the education and experience requirements for a professional counselor or clinical professional counselor, and one member of the public who is not a licensed health care provider. In appointing members of the Board, the Director shall give due consideration to the adequate representation of the various fields of counseling. In appointing members of the Board, the Director shall give due consideration to recommendations by members of the professions of professional counseling and clinical professional counseling, the Statewide organizations representing the interests of professional counselors and clinical professional counselors, organizations representing the interests of academic programs, rehabilitation counseling programs, and approved counseling programs in the State of Illinois.

(b) Members shall be appointed for and shall serve 4 year terms and until their successors are appointed and qualified, except that of the initial appointments 2 members shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining shall be appointed to serve for 4 years and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years. Any appointment to fill a vacancy shall be for the unexpired portion of the term.

(c) The membership of the Board should reasonably reflect representation from different geographic areas of Illinois.

(d) Any member appointed to fill a vacancy shall be eligible for reappointment to only one full term.

(e) The Director may remove any member for cause at any time prior to the expiration of his or her term.

(f) The Board shall annually elect one of its members as chairperson.

(g) The members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses incurred in attending the meetings of the Board.

(h) The Board may make recommendations on matters relating to approving graduate counseling, rehabilitation counseling, psychology, and related programs.

(i) The Board may make recommendations on matters relating to continuing education including the number of hours necessary for license renewal, waivers for those unable to meet such requirements, and acceptable course content. These recommendations shall not impose an undue burden on the Department or an unreasonable restriction on those seeking license renewal.

(j) The Director shall give due consideration to all recommendations of the Board.

~~(k) Four members of the Board. A majority of the Board members currently appointed shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.~~

(l) Members of the Board shall have no criminal, civil, or professional liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board, except for willful or wanton misconduct.  
(Source: P.A. 92-719, eff. 7-25-02.)

Section 1180. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 5 as follows:

(225 ILCS 110/5) (from Ch. 111, par. 7905)

(Section scheduled to be repealed on January 1, 2018)

Sec. 5. Board of Speech-Language Pathology and Audiology. There is created a Board of Speech-Language Pathology and Audiology to be composed of persons designated from time to time by the Secretary, as follows:

(a) Five persons, 2 of whom have been licensed speech-language pathologists for a period of 5 years or more, 2 of whom have been licensed audiologists for a period of 5 years or more, and one public member. The board shall annually elect a chairperson and a vice-chairperson.

(b) Terms for all members shall be for 3 years. A member shall serve until his or her successor is appointed and qualified. Partial terms over 2 years in length shall be considered as full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms.

(c) The membership of the Board should reasonably reflect representation from the various geographic areas of the State.

(d) In making appointments to the Board, the Secretary shall give due consideration to recommendations by organizations of the speech-language pathology and audiology professions in Illinois, including the Illinois Speech-Language-Hearing Association and the Illinois Academy of Audiology, and shall promptly give due notice to such organizations of any vacancy in the membership of the Board. The Secretary may terminate the appointment of any member for any cause, which in the opinion of the Secretary, reasonably justifies such termination.

(e) ~~Three members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board. The affirmative vote of at least 3 members is required for Board decisions.

(f) The members of the Board may each receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the Board.

(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(h) The Secretary may consider the recommendations of the Board in establishing guidelines for professional conduct, the conduct of formal disciplinary proceedings brought under this Act, and qualifications of applicants. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in the response. The Department, at any time, may seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

(i) Whenever the Secretary is satisfied that substantial justice has not been done either in an examination or in the revocation, suspension, or refusal of a license, or other disciplinary action relating to a license, the Secretary may order a reexamination or rehearing.  
(Source: P.A. 94-528, eff. 8-10-05; 95-465, eff. 8-27-07.)

Section 1181. The Fire Equipment Distributor and Employee Regulation Act of 2000 is amended by changing Section 25 as follows:

(225 ILCS 216/25)

(Section scheduled to be repealed on January 1, 2011)

Sec. 25. Fire Equipment Distributor and Employee Advisory Board. There is created the Fire Equipment Distributor and Employee Advisory Board consisting of 9 members to be appointed by the State Fire Marshal as soon as practicable after the effective date of this Act. Two of the members shall possess at least a Class A Fire Distributor License, 2 shall possess at least a Class B Fire Distributor License, 2 shall possess at least a Class C Fire Distributor License, 2 shall be representatives of the active fire prevention services who are not licensed under this Act, and one shall be a public member who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with any business licensed under this Act. The State Fire Marshal shall be an ex officio member of the

Board. Each member shall be a resident of Illinois. Each appointment to the Board shall have a minimum of 5 years experience as a licensee in the field in which the person is licensed, be an officer in a licensed fire equipment distributor company, and be actively engaged in the fire equipment business. In making Board appointments, the State Fire Marshal shall give consideration to the recommendations by members of the profession and by organizations therein. The membership shall reasonably reflect representation from geographic areas in this State.

Each Board member shall serve for a term of 4 years and until his or her successor is appointed and qualified. However, in making initial appointments, one member shall be appointed to serve for one year, 2 shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining members, one of whom shall be the public member, shall be appointed to serve for 4 years. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Initial terms shall begin upon the effective date of this Act.

A member of the Board may be removed from office for just cause. A member subject to formal disciplinary proceedings shall disqualify himself or herself from Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member may not objectively make a decision.

Board members shall receive no compensation but shall be reimbursed for expenses incurred in connection with their duties as board members.

~~Five members of the Board. A majority of Board members then appointed shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. A majority vote of the quorum is required for a Board decision.~~

The Board shall elect from its membership a chairman and other officers as it may deem necessary.

Board members shall not be liable for any of their acts, omissions, decisions, or any other conduct in connection with their duties on the Board, except those involving willful, wanton, or intentional misconduct.

The Board may have such powers as may be granted by the State Fire Marshal to carry out the provisions of this Act.

(Source: P.A. 91-835, eff. 6-16-00.)

Section 1182. The Illinois Roofing Industry Licensing Act is amended by changing Section 11.5 as follows:

(225 ILCS 335/11.5)

(Section scheduled to be repealed on January 1, 2016)

Sec. 11.5. The Roofing Advisory Board is created and shall consist of 8 persons, one of whom is a knowledgeable public member and 7 of whom have been issued licenses as roofing contractors by the Department. One of the 7 licensed roofing contractors on the Board shall represent a statewide association representing home builders and another of the 7 licensed roofing contractors shall represent an association predominately representing retailers. The public member shall not be licensed under this Act or any other Act the Department administers. Each member shall be appointed by the Director. Members shall be appointed who reasonably represent the different geographic areas of the State. Five members of the Board shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. A quorum of the Board shall consist of the majority of Board members appointed.

Members of the Roofing Advisory Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Roofing Advisory Board, unless the conduct that gave rise to the suit was willful and wanton misconduct.

The persons appointed shall hold office for 4 years and until a successor is appointed and qualified. The initial terms shall begin July 1, 1997. Of the members of the Board first appointed, 2 shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and 3 shall be appointed to serve for 4 years. No member shall serve more than 2 complete 4 year terms.

Within 90 days of a vacancy occurring, the Director shall fill the vacancy for the unexpired portion of the term with an appointee who meets the same qualifications as the person whose position has become vacant. The Board shall meet annually to elect one member as chairman and one member as vice-chairman. No officer shall be elected more than twice in succession to the same office. The members of the Board shall receive reimbursement for actual, necessary, and authorized expenses incurred in attending the meetings of the Board.

(Source: P.A. 94-254, eff. 7-19-05.)

Section 1183. The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 is amended by changing Section 4-2 as follows:

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(225 ILCS 410/4-2) (from Ch. 111, par. 1704-2)  
 (Section scheduled to be repealed on January 1, 2016)

Sec. 4-2. The Barber, Cosmetology, Esthetics, and Nail Technology Board. There is established within the Department the Barber, Cosmetology, Esthetics, and Nail Technology Board, composed of 11 persons, which shall serve in an advisory capacity to the Director in all matters related to the practice of barbering, cosmetology, esthetics, and nail technology.

The 11 members of the Board shall be appointed as follows: 6 licensed cosmetologists, all of whom hold a current license as a cosmetologist or cosmetology teacher and, for appointments made after the effective date of this amendatory Act of 1996, at least 2 of whom shall be an owner of or a major stockholder in a school of cosmetology, 2 of whom shall be representatives of either a franchiser or an owner operating salons in 2 or more locations within the State, one of whom shall be an independent salon owner, and no one of the cosmetologist members shall be a manufacturer, jobber, or stockholder in a factory of cosmetology articles or an immediate family member of any of the above; 2 of whom shall be barbers holding a current license; one member who shall be a licensed esthetician or esthetics teacher; one member who shall be a licensed nail technician or nail technology teacher; and one public member who holds no licenses issued by the Department. The Director shall give due consideration for membership to recommendations by members of the professions and by their professional organizations. Members shall serve 4 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for more than 2 terms. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Members of the Board in office on the effective date of this amendatory Act of 1996 shall continue to serve for the duration of the terms to which they have been appointed, but beginning on that effective date all appointments of licensed cosmetologists and barbers to serve as members of the Board shall be made in a manner that will effect at the earliest possible date the changes made by this amendatory Act of 1996 in the representative composition of the Board.

~~Six members of the Board. A majority of Board members then appointed constitutes a quorum. The affirmative vote of at least 6 members is required for Board decisions. A majority of the quorum is required for a Board decision.~~

Whenever the Director is satisfied that substantial justice has not been done in an examination, the Director may order a reexamination by the same or other examiners.  
 (Source: P.A. 93-253, eff. 7-22-03; 94-451, eff. 12-31-05.)

Section 1184. The Home Inspector License Act is amended by changing Section 25-10 as follows:  
 (225 ILCS 441/25-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-10. Home Inspector Advisory Board.

(a) There is hereby created the Home Inspector Advisory Board. The Board shall be composed of 7 voting members appointed by the Commissioner, plus the liaison under Section 25-15, who shall serve ex officio and without vote. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Five appointed members shall be actively engaged and currently licensed as home inspectors, except that the initial appointees may be persons without a license who have been actively engaged as home inspectors for a period of 5 years immediately before the effective date of this Act. Failure of an initial appointee under this item (3) to obtain a license by January 1, 2003 shall constitute resignation from the Board.

(4) One appointed member shall hold a valid license as a real estate broker and shall have been actively engaged as a real estate broker for a period of not less than 5 years.

(5) One appointed member shall represent the interests of the general public. This member and the member's spouse shall not be licensed under this Act, nor be employed by nor have any interest in a home inspection business or a real estate brokerage business.

In making appointments to the Board, the Commissioner shall give due consideration to recommendations by members and organizations representing the home inspection and real estate industries.

(b) The term for members of the Board shall be 4 years, except for the initial appointees. Of the initial appointees, 4 members shall be appointed for terms ending January 1, 2007 and 3 members shall be

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appointed for terms ending January 1, 2006. No member shall serve more than 10 years in a lifetime.

(c) The Commissioner may terminate the appointment of any member for cause that, in the opinion of the Commissioner, reasonably justifies the termination. Cause for termination may include, without limitation, misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one calendar year.

(d) ~~Four members of the Board. A majority of the voting members currently appointed~~ shall constitute a quorum. ~~The affirmative vote of at least 4 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least quarterly and may be convened by the Chairperson or 3 members of the Board upon 10 days' written notice.

(g) The liaison appointed pursuant to Section 25-15 of this Act shall serve, ex officio, as Chairperson of the Board, without vote.

(h) The Board shall advise OBRE on matters of licensing and education and shall make recommendations to OBRE on those matters. OBRE shall give due consideration to all recommendations presented by the Board.

(i) The Board shall hear and make recommendations to the Commissioner on disciplinary matters that require a formal evidentiary hearing. The Commissioner shall give due consideration to the recommendations of the Board involving discipline and questions about the standards of professional conduct of licensees.

(j) The Board may make recommendations to OBRE concerning the consistency of the rules with the provisions of this Act and the administration and enforcement of the rules. OBRE shall give due consideration to the recommendations of the Board prior to promulgating rules.

(k) The Board shall make recommendations to OBRE on the approval of courses submitted to OBRE pursuant to this Act and rules. OBRE shall give due consideration to the recommendations of the Board prior to approving courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each voting member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(m) Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 92-239, eff. 8-3-01.)

Section 1185. The Interpreter for the Deaf Licensure Act of 2007 is amended by changing Section 65 as follows:

(225 ILCS 443/65)

(Section scheduled to be repealed on January 1, 2018)

Sec. 65. Illinois Board of Interpreters.

(a) The Director shall appoint an Illinois Board of Interpreters for the Deaf consisting of 7 voting members who shall serve in an advisory capacity to the Commission and to the Department. The Director shall consider recommendations by consumer and professional groups related to the interpreting profession and deaf and hard of hearing community. The Board shall be composed of 4 licensed interpreters for the deaf, 3 deaf or hard of hearing consumers, and the Interpreter Coordinator who shall serve as a non-voting member.

(b) The initial Board shall be appointed no later than January 31, 2008.

(c) The Board shall meet no less than 2 times per year and may hold additional meetings as required in the performance of its duties.

(d) The members shall be appointed to serve 4-year terms and shall serve until successors are appointed and qualified, except that initial appointments shall be staggered with one member appointed to serve for one year, 2 members appointed to serve for 2 years, 2 members appointed to serve for 3 years, and 2 members appointed to serve for 4 years. No member shall be eligible to serve more than 2 consecutive terms. A vacancy in the Board shall be filled by appointment by the Director for the remainder of the unexpired term. Those interpreter members appointed initially must qualify for and obtain licensure under this Act on or before July 1, 2009.

(e) In making appointments, the Director shall attempt to ensure that various ethnic and geographic regions of the State are properly represented.

(f) The membership of the Board shall reflect the differences in certification, experience, education, and background and knowledge of interpreting for the deaf and evaluation.

(g) The Director may terminate the appointment of any member for misconduct, inefficiency,

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incompetence, or neglect of his or her official duties.

(h) The Board shall make recommendations to the Director in establishing guidelines for policies and procedures under this Act. Notice of proposed rulemaking shall be transmitted to the Board and the Director shall review the response, with the exception of the need for emergency rulemaking.

(i) The Director shall consider the recommendation of the Board on all matters and questions relating to this Act.

(j) The Board shall annually elect from its membership a chairperson, vice chairperson, and a secretary.

(k) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

(l) ~~Four members of the Board. A majority of the Board members currently appointed~~ shall constitute a quorum. ~~The affirmative vote of at least 4 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

(m) Except in cases of willful and wanton misconduct, members shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 95-617, eff. 9-12-07.)

Section 1186. The Real Estate Appraiser Licensing Act of 2002 is amended by changing Section 25-10 as follows:

(225 ILCS 458/25-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-10. Real Estate Appraisal Board; appointment.

(a) There is hereby created the Real Estate Appraisal Board. The Board shall be composed of 10 persons appointed by the Governor, plus the Director of the Real Estate Appraisal Division. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Four appointed members shall have been actively engaged and currently licensed as State certified general real estate appraisers for a period of not less than 5 years.

(4) Two appointed members shall have been actively engaged and currently licensed as State certified residential real estate appraisers for a period of not less than 5 years.

(5) Two appointed members shall hold a valid license as a real estate broker for at least 10 years prior to the date of the appointment and shall hold a valid appraiser license issued under this Act or a predecessor Act for a period of at least 5 years prior to the appointment.

(6) One appointed member shall be a representative of a financial institution, as evidenced by his or her employment with a financial institution.

(7) One appointed member shall represent the interests of the general public. This member or his or her spouse shall not be licensed under this Act nor be employed by or have any interest in an appraisal business, real estate brokerage business, or a financial institution.

In making appointments as provided in paragraphs (3) and (4) of this subsection, the Governor shall give due consideration to recommendations by members and organizations representing the real estate appraisal industry.

In making the appointments as provided in paragraph (5) of this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing the real estate industry.

In making the appointment as provided in paragraph (6) of this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing financial institutions.

(b) The term for members of the Board shall be 4 years, except for the initial appointees. Of the initial appointments, 4 members shall be appointed for terms ending June 30, 2006, 3 members shall be appointed for terms ending June 30, 2005, and 3 members shall be appointed for terms ending June 30, 2004. No member shall serve more than 10 years in a lifetime. Those persons serving on the Board pursuant to the Real Estate Appraiser Licensing Act shall become members of the new Board on July 1, 2002 and shall serve until the Governor has made the new appointments pursuant to this Act.

(c) The Governor may terminate the appointment of a member for cause that, in the opinion of the Governor, reasonably justifies the termination. Cause for termination may include, without limitation,

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misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one calendar year.

(d) ~~Six members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. ~~The affirmative vote of at least 6 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least quarterly and may be convened by the Chairperson, Co-Chairperson, or 3 members of the Board upon 10 days written notice.

(f) The Board shall, annually at the first meeting of the fiscal year, elect a Chairperson and Vice-Chairperson from its members. The Chairperson shall preside over the meetings and shall coordinate with the Director in developing and distributing an agenda for each meeting. In the absence of the Chairperson, the Co-Chairperson shall preside over the meeting.

(g) The Director of the Real Estate Appraisal Division shall serve as a member of the Board without vote.

(h) The Board shall advise and make recommendations to OBRE on matters of licensing and education. OBRE shall give due consideration to all recommendations presented by the Board.

(i) The Board shall hear and make recommendations to the Commissioner on disciplinary matters that require a formal evidentiary hearing. The Commissioner shall give due consideration to the recommendations of the Board involving discipline and questions involving standards of professional conduct of licensees.

(j) The Board may make recommendations to OBRE consistent with the provisions of this Act and for the administration and enforcement of the rules adopted pursuant to this Act. OBRE shall give due consideration to the recommendations of the Board prior to adopting rules.

(k) The Board shall make recommendations to OBRE on the approval of courses submitted to OBRE pursuant to this Act and the rules adopted pursuant to this Act. OBRE shall give due consideration to the recommendations of the Board prior to approving and licensing courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(m) Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 92-180, eff. 7-1-02.)

Section 1190. The Illinois Horse Racing Act of 1975 is amended by adding Section 2.5 and by changing Sections 28 and 30 as follows:

(230 ILCS 5/2.5 new)

Sec. 2.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Racing Board, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003) and Executive Order 09-05, filed April 1, 2009.

(230 ILCS 5/28) (from Ch. 8, par. 37-28)

Sec. 28. Except as provided in subsection (g) of Section 27 of this Act, moneys collected shall be distributed according to the provisions of this Section 28.

(a) Thirty per cent of the total of all monies received by the State as privilege taxes shall be paid into the Metropolitan Exposition Auditorium and Office Building Fund in the State Treasury.

(b) In addition, 4.5% of the total of all monies received by the State as privilege taxes shall be paid into the State treasury into a special Fund to be known as the Metropolitan Exposition, Auditorium, and Office Building Fund.

(c) Fifty per cent of the total of all monies received by the State as privilege taxes under the provisions of this Act shall be paid into the Agricultural Premium Fund.

(d) Seven per cent of the total of all monies received by the State as privilege taxes shall be paid into the Fair and Exposition Fund in the State treasury; provided, however, that when all bonds issued prior to July 1, 1984 by the Metropolitan Fair and Exposition Authority shall have been paid or payment shall

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have been provided for upon a refunding of those bonds, thereafter 1/12 of \$1,665,662 of such monies shall be paid each month into the Build Illinois Fund, and the remainder into the Fair and Exposition Fund. All excess monies shall be allocated to the Department of Agriculture for distribution to county fairs for premiums and rehabilitation as set forth in the Agricultural Fair Act.

(e) The monies provided for in Section 30 shall be paid into the Illinois Thoroughbred Breeders Fund.

(f) The monies provided for in Section 31 shall be paid into the Illinois Standardbred Breeders Fund.

(g) Until January 1, 2000, that part representing 1/2 of the total breakage in Thoroughbred, Harness, Appaloosa, Arabian, and Quarter Horse racing in the State shall be paid into the Illinois Race Track Improvement Fund as established in Section 32.

(h) All other monies received by the Board under this Act shall be paid into the General Revenue Fund of the State.

(i) The salaries of the Board members, secretary, stewards, directors of mutuels, veterinarians, representatives, accountants, clerks, stenographers, inspectors and other employees of the Board, and all expenses of the Board incident to the administration of this Act, including, but not limited to, all expenses and salaries incident to the taking of saliva and urine samples in accordance with the rules and regulations of the Board shall be paid out of the Agricultural Premium Fund.

(j) The Agricultural Premium Fund shall also be used:

(1) for the expenses of operating the Illinois State Fair and the DuQuoin State Fair, including the payment of prize money or premiums;

(2) for the distribution to county fairs, vocational agriculture section fairs, agricultural societies, and agricultural extension clubs in accordance with the Agricultural Fair Act, as amended;

(3) for payment of prize monies and premiums awarded and for expenses incurred in connection with the International Livestock Exposition and the Mid-Continent Livestock Exposition held in Illinois, which premiums, and awards must be approved, and paid by the Illinois Department of Agriculture;

(4) for personal service of county agricultural advisors and county home advisors;

(5) for distribution to agricultural home economic extension councils in accordance with "An Act in relation to additional support and finance for the Agricultural and Home Economic Extension Councils in the several counties in this State and making an appropriation therefor", approved July 24, 1967, as amended;

(6) for research on equine disease, including a development center therefor;

(7) for training scholarships for study on equine diseases to students at the University of Illinois College of Veterinary Medicine;

(8) for the rehabilitation, repair and maintenance of the Illinois and DuQuoin State Fair Grounds and the structures and facilities thereon and the construction of permanent improvements on such Fair Grounds, including such structures, facilities and property located on such State Fair Grounds which are under the custody and control of the Department of Agriculture;

(9) for the expenses of the Department of Agriculture under Section 5-530 of the Departments of State Government Law (20 ILCS 5/5-530);

(10) for the expenses of the Department of Commerce and Economic Opportunity under Sections 605-620, 605-625, and 605-630 of the Department of Commerce and Economic Opportunity Law (20 ILCS 605/605-620, 605/605-625, and 605/605-630);

(11) for remodeling, expanding, and reconstructing facilities destroyed by fire of any Fair and Exposition Authority in counties with a population of 1,000,000 or more inhabitants;

(12) for the purpose of assisting in the care and general rehabilitation of disabled veterans of any war and their surviving spouses and orphans;

(13) for expenses of the Department of State Police for duties performed under this Act;

(14) for the Department of Agriculture for soil surveys and soil and water conservation purposes;

(15) for the Department of Agriculture for grants to the City of Chicago for conducting the Chicagofest, †

~~(16) for the State Comptroller for grants and operating expenses authorized by the Illinois Global Partnership Act.~~

(k) To the extent that monies paid by the Board to the Agricultural Premium Fund are in the opinion of the Governor in excess of the amount necessary for the purposes herein stated, the Governor shall notify the Comptroller and the State Treasurer of such fact, who, upon receipt of such notification, shall transfer such excess monies from the Agricultural Premium Fund to the General Revenue Fund.

(Source: P.A. 94-91, Sections 55-135 and 90-10, eff. 7-1-05.)

(230 ILCS 5/30) (from Ch. 8, par. 37-30)

Sec. 30. (a) The General Assembly declares that it is the policy of this State to encourage the breeding of thoroughbred horses in this State and the ownership of such horses by residents of this State in order to provide for: sufficient numbers of high quality thoroughbred horses to participate in thoroughbred racing meetings in this State, and to establish and preserve the agricultural and commercial benefits of such breeding and racing industries to the State of Illinois. It is the intent of the General Assembly to further this policy by the provisions of this Act.

(b) Each organization licensee conducting a thoroughbred racing meeting pursuant to this Act shall provide at least two races each day limited to Illinois conceived and foaled horses or Illinois foaled horses or both. A minimum of 6 races shall be conducted each week limited to Illinois conceived and foaled or Illinois foaled horses or both. No horses shall be permitted to start in such races unless duly registered under the rules of the Department of Agriculture.

(c) Conditions of races under subsection (b) shall be commensurate with past performance, quality, and class of Illinois conceived and foaled and Illinois foaled horses available. If, however, sufficient competition cannot be had among horses of that class on any day, the races may, with consent of the Board, be eliminated for that day and substitute races provided.

(d) There is hereby created a special fund of the State Treasury to be known as the Illinois Thoroughbred Breeders Fund.

Except as provided in subsection (g) of Section 27 of this Act, 8.5% of all the monies received by the State as privilege taxes on Thoroughbred racing meetings shall be paid into the Illinois Thoroughbred Breeders Fund.

(e) The Illinois Thoroughbred Breeders Fund shall be administered by the Department of Agriculture with the advice and assistance of the Advisory Board created in subsection (f) of this Section.

(f) The Illinois Thoroughbred Breeders Fund Advisory Board shall consist of the Director of the Department of Agriculture, who shall serve as Chairman; a member of the Illinois Racing Board, designated by it; 2 representatives of the organization licensees conducting thoroughbred racing meetings, recommended by them; 2 representatives of the Illinois Thoroughbred Breeders and Owners Foundation, recommended by it; and 2 representatives of the Horsemen's Benevolent Protective Association or any successor organization established in Illinois comprised of the largest number of owners and trainers, recommended by it, with one representative of the Horsemen's Benevolent and Protective Association to come from its Illinois Division, and one from its Chicago Division. Advisory Board members shall serve for 2 years commencing January 1 of each odd numbered year. If representatives of the organization licensees conducting thoroughbred racing meetings, the Illinois Thoroughbred Breeders and Owners Foundation, and the Horsemen's Benevolent Protection Association have not been recommended by January 1, of each odd numbered year, the Director of the Department of Agriculture shall make an appointment for the organization failing to so recommend a member of the Advisory Board. Advisory Board members shall receive no compensation for their services as members but shall be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of their official duties.

(g) No monies shall be expended from the Illinois Thoroughbred Breeders Fund except as appropriated by the General Assembly. Monies appropriated from the Illinois Thoroughbred Breeders Fund shall be expended by the Department of Agriculture, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board, for the following purposes only:

(1) To provide purse supplements to owners of horses participating in races limited to

Illinois conceived and foaled and Illinois foaled horses. Any such purse supplements shall not be included in and shall be paid in addition to any purses, stakes, or breeders' awards offered by each organization licensee as determined by agreement between such organization licensee and an organization representing the horsemen. No monies from the Illinois Thoroughbred Breeders Fund shall be used to provide purse supplements for claiming races in which the minimum claiming price is less than \$7,500.

(2) To provide stakes and awards to be paid to the owners of the winning horses in certain races limited to Illinois conceived and foaled and Illinois foaled horses designated as stakes races.

(2.5) To provide an award to the owner or owners of an Illinois conceived and foaled or Illinois foaled horse that wins a maiden special weight, an allowance, overnight handicap race, or claiming race with claiming price of \$10,000 or more providing the race is not restricted to Illinois conceived and foaled or Illinois foaled horses. Awards shall also be provided to the owner or owners of Illinois conceived and foaled and Illinois foaled horses that place second or third in those races. To the extent that additional moneys are required to pay the minimum additional awards of 40% of the

purse the horse earns for placing first, second or third in those races for Illinois foaled horses and of 60% of the purse the horse earns for placing first, second or third in those races for Illinois conceived and foaled horses, those moneys shall be provided from the purse account at the track where earned.

(3) To provide stallion awards to the owner or owners of any stallion that is duly registered with the Illinois Thoroughbred Breeders Fund Program prior to the effective date of this amendatory Act of 1995 whose duly registered Illinois conceived and foaled offspring wins a race conducted at an Illinois thoroughbred racing meeting other than a claiming race. Such award shall not be paid to the owner or owners of an Illinois stallion that served outside this State at any time during the calendar year in which such race was conducted.

(4) To provide \$75,000 annually for purses to be distributed to county fairs that provide for the running of races during each county fair exclusively for the thoroughbreds conceived and foaled in Illinois. The conditions of the races shall be developed by the county fair association and reviewed by the ~~Board Department~~ with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board. There shall be no wagering of any kind on the running of Illinois conceived and foaled races at county fairs.

(4.1) To provide purse money for an Illinois stallion stakes program.

(5) No less than 80% of all monies appropriated from the Illinois Thoroughbred Breeders Fund shall be expended for the purposes in (1), (2), (2.5), (3), (4), (4.1), and (5) as shown above.

(6) To provide for educational programs regarding the thoroughbred breeding industry.

(7) To provide for research programs concerning the health, development and care of the thoroughbred horse.

(8) To provide for a scholarship and training program for students of equine veterinary medicine.

(9) To provide for dissemination of public information designed to promote the breeding of thoroughbred horses in Illinois.

(10) To provide for all expenses incurred in the administration of the Illinois Thoroughbred Breeders Fund.

(h) Whenever the Governor finds that the amount in the Illinois Thoroughbred Breeders Fund is more than the total of the outstanding appropriations from such fund, the Governor shall notify the State Comptroller and the State Treasurer of such fact. The Comptroller and the State Treasurer, upon receipt of such notification, shall transfer such excess amount from the Illinois Thoroughbred Breeders Fund to the General Revenue Fund.

(i) A sum equal to 12 1/2% of the first prize money of every purse won by an Illinois foaled or an Illinois conceived and foaled horse in races not limited to Illinois foaled horses or Illinois conceived and foaled horses, or both, shall be paid by the organization licensee conducting the horse race meeting. Such sum shall be paid from the organization licensee's share of the money wagered as follows: 11 1/2% to the breeder of the winning horse and 1% to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board for verifying the amounts of breeders' awards earned, assuring their distribution in accordance with this Act, and servicing and promoting the Illinois thoroughbred horse racing industry. The organization representing thoroughbred breeders and owners shall cause all expenditures of monies received under this subsection (i) to be audited at least annually by a registered public accountant. The organization shall file copies of each annual audit with the Racing Board, the Clerk of the House of Representatives and the Secretary of the Senate, and shall make copies of each annual audit available to the public upon request and upon payment of the reasonable cost of photocopying the requested number of copies. Such payments shall not reduce any award to the owner of the horse or reduce the taxes payable under this Act. Upon completion of its racing meet, each organization licensee shall deliver to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board a listing of all the Illinois foaled and the Illinois conceived and foaled horses which won breeders' awards and the amount of such breeders' awards under this subsection to verify accuracy of payments and assure proper distribution of breeders' awards in accordance with the provisions of this Act. Such payments shall be delivered by the organization licensee within 30 days of the end of each race meeting.

(j) A sum equal to 12 1/2% of the first prize money won in each race limited to Illinois foaled horses or Illinois conceived and foaled horses, or both, shall be paid in the following manner by the organization licensee conducting the horse race meeting, from the organization licensee's share of the money wagered: 11 1/2% to the breeders of the horses in each such race which are the official first, second, third and fourth finishers and 1% to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board for

verifying the amounts of breeders' awards earned, assuring their proper distribution in accordance with this Act, and servicing and promoting the Illinois thoroughbred horse racing industry. The organization representing thoroughbred breeders and owners shall cause all expenditures of monies received under this subsection (j) to be audited at least annually by a registered public accountant. The organization shall file copies of each annual audit with the Racing Board, the Clerk of the House of Representatives and the Secretary of the Senate, and shall make copies of each annual audit available to the public upon request and upon payment of the reasonable cost of photocopying the requested number of copies.

The 11 1/2% paid to the breeders in accordance with this subsection shall be distributed as follows:

- (1) 60% of such sum shall be paid to the breeder of the horse which finishes in the official first position;
- (2) 20% of such sum shall be paid to the breeder of the horse which finishes in the official second position;
- (3) 15% of such sum shall be paid to the breeder of the horse which finishes in the official third position; and
- (4) 5% of such sum shall be paid to the breeder of the horse which finishes in the official fourth position.

Such payments shall not reduce any award to the owners of a horse or reduce the taxes payable under this Act. Upon completion of its racing meet, each organization licensee shall deliver to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board a listing of all the Illinois foaled and the Illinois conceived and foaled horses which won breeders' awards and the amount of such breeders' awards in accordance with the provisions of this Act. Such payments shall be delivered by the organization licensee within 30 days of the end of each race meeting.

(k) The term "breeder", as used herein, means the owner of the mare at the time the foal is dropped. An "Illinois foaled horse" is a foal dropped by a mare which enters this State on or before December 1, in the year in which the horse is bred, provided the mare remains continuously in this State until its foal is born. An "Illinois foaled horse" also means a foal born of a mare in the same year as the mare enters this State on or before March 1, and remains in this State at least 30 days after foaling, is bred back during the season of the foaling to an Illinois Registered Stallion (unless a veterinarian certifies that the mare should not be bred for health reasons), and is not bred to a stallion standing in any other state during the season of foaling. An "Illinois foaled horse" also means a foal born in Illinois of a mare purchased at public auction subsequent to the mare entering this State prior to February 1 of the foaling year providing the mare is owned solely by one or more Illinois residents or an Illinois entity that is entirely owned by one or more Illinois residents.

(l) The Department of Agriculture shall, by rule, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board:

(1) Qualify stallions for Illinois breeding; such stallions to stand for service within the State of Illinois at the time of a foal's conception. Such stallion must not stand for service at any place outside the State of Illinois during the calendar year in which the foal is conceived. The Department of Agriculture may assess and collect application fees for the registration of Illinois-eligible stallions. All fees collected are to be paid into the Illinois Thoroughbred Breeders Fund.

(2) Provide for the registration of Illinois conceived and foaled horses and Illinois foaled horses. No such horse shall compete in the races limited to Illinois conceived and foaled horses or Illinois foaled horses or both unless registered with the Department of Agriculture. The Department of Agriculture may prescribe such forms as are necessary to determine the eligibility of such horses. The Department of Agriculture may assess and collect application fees for the registration of Illinois-eligible foals. All fees collected are to be paid into the Illinois Thoroughbred Breeders Fund. No person shall knowingly prepare or cause preparation of an application for registration of such foals containing false information.

(m) The Department of Agriculture, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board, shall provide that certain races limited to Illinois conceived and foaled and Illinois foaled horses be stakes races and determine the total amount of stakes and awards to be paid to the owners of the winning horses in such races.

In determining the stakes races and the amount of awards for such races, the Department of Agriculture shall consider factors, including but not limited to, the amount of money appropriated for the Illinois Thoroughbred Breeders Fund program, organization licensees' contributions, availability of stakes caliber horses as demonstrated by past performances, whether the race can be coordinated into the proposed racing dates within organization licensees' racing dates, opportunity for colts and fillies and

various age groups to race, public wagering on such races, and the previous racing schedule.

(n) The Board and the organizational licensee shall notify the Department of the conditions and minimum purses for races limited to Illinois conceived and foaled and Illinois foaled horses conducted for each organizational licensee conducting a thoroughbred racing meeting. The Department of Agriculture with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board may allocate monies for purse supplements for such races. In determining whether to allocate money and the amount, the Department of Agriculture shall consider factors, including but not limited to, the amount of money appropriated for the Illinois Thoroughbred Breeders Fund program, the number of races that may occur, and the organizational licensee's purse structure.

(o) In order to improve the breeding quality of thoroughbred horses in the State, the General Assembly recognizes that existing provisions of this Section to encourage such quality breeding need to be revised and strengthened. As such, a Thoroughbred Breeder's Program Task Force is to be appointed by the Governor by September 1, 1999 to make recommendations to the General Assembly by no later than March 1, 2000. This task force is to be composed of 2 representatives from the Illinois Thoroughbred Breeders and Owners Foundation, 2 from the Illinois Thoroughbred Horsemen's Association, 3 from Illinois race tracks operating thoroughbred race meets for an average of at least 30 days in the past 3 years, the Director of Agriculture, the Executive Director of the Racing Board, who shall serve as Chairman.

(Source: P.A. 91-40, eff. 6-25-99.)

Section 1200. The Riverboat Gambling Act is amended by changing Sections 4, 5, and 13 and by adding Section 5.5 as follows:

(230 ILCS 10/4) (from Ch. 120, par. 2404)

Sec. 4. Definitions. As used in this Act:

(a) "Board" means the Illinois Gaming Board.

(b) "Occupational license" means a license issued by the Board to a person or entity to perform an occupation which the Board has identified as requiring a license to engage in riverboat gambling in Illinois.

(c) "Gambling game" includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act.

(d) "Riverboat" means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on which lawful gambling is authorized and licensed as provided in this Act.

(e) "Managers license" means a license issued by the Board to a person or entity to manage gambling operations conducted by the State pursuant to Section 7.3.

(f) "Dock" means the location where a riverboat moors for the purpose of embarking passengers for and disembarking passengers from the riverboat.

(g) "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens or electronic cards by riverboat patrons.

(h) "Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

(i) "Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

(j) ~~(Blank). "Department" means the Department of Revenue.~~

(k) "Gambling operation" means the conduct of authorized gambling games upon a riverboat.

(l) "License bid" means the lump sum amount of money that an applicant bids and agrees to pay the State in return for an owners license that is re-issued on or after July 1, 2003.

(m) The terms "minority person" and "female" shall have the same meaning as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

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

(230 ILCS 10/5) (from Ch. 120, par. 2405)

Sec. 5. Gaming Board.

(a) (1) There is hereby established ~~the within the Department of Revenue an~~ Illinois Gaming Board, which shall have the powers and duties specified in this Act, and all other powers necessary and proper to fully and effectively execute this Act for the purpose of administering, regulating, and enforcing the system of riverboat gambling established by this Act. Its jurisdiction shall extend under this Act to every person, association, corporation, partnership and trust involved in riverboat gambling operations in the State of Illinois.

(2) The Board shall consist of 5 members to be appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated by the Governor to be chairman. Each member shall have a reasonable knowledge of the practice, procedure and principles of gambling operations. Each member shall either be a resident of Illinois or shall certify that he will become a resident of Illinois before taking office. At least one member shall be experienced in law enforcement and criminal investigation, at least one member shall be a certified public accountant experienced in accounting and auditing, and at least one member shall be a lawyer licensed to practice law in Illinois.

(3) The terms of office of the Board members shall be 3 years, except that the terms of office of the initial Board members appointed pursuant to this Act will commence from the effective date of this Act and run as follows: one for a term ending July 1, 1991, 2 for a term ending July 1, 1992, and 2 for a term ending July 1, 1993. Upon the expiration of the foregoing terms, the successors of such members shall serve a term for 3 years and until their successors are appointed and qualified for like terms. Vacancies in the Board shall be filled for the unexpired term in like manner as original appointments. Each member of the Board shall be eligible for reappointment at the discretion of the Governor with the advice and consent of the Senate.

(4) Each member of the Board shall receive \$300 for each day the Board meets and for each day the member conducts any hearing pursuant to this Act. Each member of the Board shall also be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties.

(5) No person shall be appointed a member of the Board or continue to be a member of the Board who is, or whose spouse, child or parent is, a member of the board of directors of, or a person financially interested in, any gambling operation subject to the jurisdiction of this Board, or any race track, race meeting, racing association or the operations thereof subject to the jurisdiction of the Illinois Racing Board. No Board member shall hold any other public office for which he shall receive compensation other than necessary travel or other incidental expenses. No person shall be a member of the Board who is not of good moral character or who has been convicted of, or is under indictment for, a felony under the laws of Illinois or any other state, or the United States.

(6) Any member of the Board may be removed by the Governor for neglect of duty, misfeasance, malfeasance, or nonfeasance in office.

(7) Before entering upon the discharge of the duties of his office, each member of the Board shall take an oath that he will faithfully execute the duties of his office according to the laws of the State and the rules and regulations adopted therewith and shall give bond to the State of Illinois, approved by the Governor, in the sum of \$25,000. Every such bond, when duly executed and approved, shall be recorded in the office of the Secretary of State. Whenever the Governor determines that the bond of any member of the Board has become or is likely to become invalid or insufficient, he shall require such member forthwith to renew his bond, which is to be approved by the Governor. Any member of the Board who fails to take oath and give bond within 30 days from the date of his appointment, or who fails to renew his bond within 30 days after it is demanded by the Governor, shall be guilty of neglect of duty and may be removed by the Governor. The cost of any bond given by any member of the Board under this Section shall be taken to be a part of the necessary expenses of the Board.

(8) ~~Upon the request of the Board, the Department~~ shall employ such personnel as may be necessary to carry out the functions of the Board. No person shall be employed to serve the Board who is, or whose spouse, parent or child is, an official of, or has a financial interest in or financial relation with, any operator engaged in gambling operations within this State or any organization engaged in conducting horse racing within this State. Any employee violating these prohibitions shall be subject to termination of employment.

(9) An Administrator shall perform any and all duties that the Board shall assign him. The salary of the Administrator shall be determined by the Board ~~and approved by the Director of the Department~~ and, in addition, he shall be reimbursed for all actual and necessary expenses incurred by him in discharge of his official duties. The Administrator shall keep records of all proceedings of the Board and shall preserve all records, books, documents and other papers belonging to the Board or entrusted to its care. The Administrator shall devote his full time to the duties of the office and shall not hold any other office or employment.

(b) The Board shall have general responsibility for the implementation of this Act. Its duties include, without limitation, the following:

- (1) To decide promptly and in reasonable order all license applications. Any party aggrieved by an action of the Board denying, suspending, revoking, restricting or refusing to renew a license may request a hearing before the Board. A request for a hearing must be made to the Board in writing within 5 days after service of notice of the action of the Board. Notice of the action of the Board shall be served either by personal delivery or by certified mail, postage prepaid, to the

aggrieved party. Notice served by certified mail shall be deemed complete on the business day following the date of such mailing. The Board shall conduct all requested hearings promptly and in reasonable order;

(2) To conduct all hearings pertaining to civil violations of this Act or rules and regulations promulgated hereunder;

(3) To promulgate such rules and regulations as in its judgment may be necessary to protect or enhance the credibility and integrity of gambling operations authorized by this Act and the regulatory process hereunder;

(4) To provide for the establishment and collection of all license and registration fees and taxes imposed by this Act and the rules and regulations issued pursuant hereto. All such fees and taxes shall be deposited into the State Gaming Fund;

(5) To provide for the levy and collection of penalties and fines for the violation of provisions of this Act and the rules and regulations promulgated hereunder. All such fines and penalties shall be deposited into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois;

(6) To be present through its inspectors and agents any time gambling operations are conducted on any riverboat for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such other investigations into the conduct of the gambling games and the maintenance of the equipment as from time to time the Board may deem necessary and proper;

(7) To review and rule upon any complaint by a licensee regarding any investigative procedures of the State which are unnecessarily disruptive of gambling operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, and establish that: (A) the procedures had no reasonable law enforcement purposes, and (B) the procedures were so disruptive as to unreasonably inhibit gambling operations;

(8) To hold at least one meeting each quarter of the fiscal year. In addition, special meetings may be called by the Chairman or any 2 Board members upon 72 hours written notice to each member. All Board meetings shall be subject to the Open Meetings Act. Three members of the Board shall constitute a quorum, and 3 votes shall be required for any final determination by the Board. The Board shall keep a complete and accurate record of all its meetings. A majority of the members of the Board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power which this Act requires the Board members to transact, perform or exercise en banc, except that, upon order of the Board, one of the Board members or an administrative law judge designated by the Board may conduct any hearing provided for under this Act or by Board rule and may recommend findings and decisions to the Board. The Board member or administrative law judge conducting such hearing shall have all powers and rights granted to the Board in this Act. The record made at the time of the hearing shall be reviewed by the Board, or a majority thereof, and the findings and decision of the majority of the Board shall constitute the order of the Board in such case;

(9) To maintain records which are separate and distinct from the records of any other State board or commission. Such records shall be available for public inspection and shall accurately reflect all Board proceedings;

(10) To file a written annual report with the Governor on or before March 1 each year and such additional reports as the Governor may request. The annual report shall include a statement of receipts and disbursements by the Board, actions taken by the Board, and any additional information and recommendations which the Board may deem valuable or which the Governor may request;

(11) (Blank); and

(12) To assume responsibility for the administration and enforcement of the Bingo License and Tax Act, the Charitable Games Act, and the Pull Tabs and Jar Games Act if such responsibility is delegated to it by the Director of Revenue.

(c) The Board shall have jurisdiction over and shall supervise all gambling operations governed by this Act. The Board shall have all powers necessary and proper to fully and effectively execute the provisions of this Act, including, but not limited to, the following:

(1) To investigate applicants and determine the eligibility of applicants for licenses and to select among competing applicants the applicants which best serve the interests of the citizens of Illinois.

(2) To have jurisdiction and supervision over all riverboat gambling operations in this State and all persons on riverboats where gambling operations are conducted.

(3) To promulgate rules and regulations for the purpose of administering the provisions of this Act and to prescribe rules, regulations and conditions under which all riverboat gambling in the State shall be conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of riverboat gambling, including rules and regulations regarding the inspection of such riverboats and the review of any permits or licenses necessary to operate a riverboat under any laws or regulations applicable to riverboats, and to impose penalties for violations thereof.

(4) To enter the office, riverboats, facilities, or other places of business of a licensee, where evidence of the compliance or noncompliance with the provisions of this Act is likely to be found.

(5) To investigate alleged violations of this Act or the rules of the Board and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both.

(6) To adopt standards for the licensing of all persons under this Act, as well as for electronic or mechanical gambling games, and to establish fees for such licenses.

(7) To adopt appropriate standards for all riverboats and facilities.

(8) To require that the records, including financial or other statements of any licensee under this Act, shall be kept in such manner as prescribed by the Board and that any such licensee involved in the ownership or management of gambling operations submit to the Board an annual balance sheet and profit and loss statement, list of the stockholders or other persons having a 1% or greater beneficial interest in the gambling activities of each licensee, and any other information the Board deems necessary in order to effectively administer this Act and all rules, regulations, orders and final decisions promulgated under this Act.

(9) To conduct hearings, issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with the Illinois Administrative Procedure Act, and to administer oaths and affirmations to the witnesses, when, in the judgment of the Board, it is necessary to administer or enforce this Act or the Board rules.

(10) To prescribe a form to be used by any licensee involved in the ownership or management of gambling operations as an application for employment for their employees.

(11) To revoke or suspend licenses, as the Board may see fit and in compliance with applicable laws of the State regarding administrative procedures, and to review applications for the renewal of licenses. The Board may suspend an owners license, without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a riverboat's operation. The suspension may remain in effect until the Board determines that the cause for suspension has been abated. The Board may revoke the owners license upon a determination that the owner has not made satisfactory progress toward abating the hazard.

(12) To eject or exclude or authorize the ejection or exclusion of, any person from riverboat gambling facilities where such person is in violation of this Act, rules and regulations thereunder, or final orders of the Board, or where such person's conduct or reputation is such that his presence within the riverboat gambling facilities may, in the opinion of the Board, call into question the honesty and integrity of the gambling operations or interfere with orderly conduct thereof; provided that the propriety of such ejection or exclusion is subject to subsequent hearing by the Board.

(13) To require all licensees of gambling operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which shall be used only for wagering in the gambling establishment.

(14) (Blank).

(15) To suspend, revoke or restrict licenses, to require the removal of a licensee or an employee of a licensee for a violation of this Act or a Board rule or for engaging in a fraudulent practice, and to impose civil penalties of up to \$5,000 against individuals and up to \$10,000 or an amount equal to the daily gross receipts, whichever is larger, against licensees for each violation of any provision of the Act, any rules adopted by the Board, any order of the Board or any other action which, in the Board's discretion, is a detriment or impediment to riverboat gambling operations.

(16) To hire employees to gather information, conduct investigations and carry out any other tasks contemplated under this Act.

(17) To establish minimum levels of insurance to be maintained by licensees.

(18) To authorize a licensee to sell or serve alcoholic liquors, wine or beer as defined in the Liquor Control Act of 1934 on board a riverboat and to have exclusive authority to establish the hours for sale and consumption of alcoholic liquor on board a riverboat, notwithstanding

any provision of the Liquor Control Act of 1934 or any local ordinance, and regardless of whether the riverboat makes excursions. The establishment of the hours for sale and consumption of alcoholic liquor on board a riverboat is an exclusive power and function of the State. A home rule unit may not establish the hours for sale and consumption of alcoholic liquor on board a riverboat. This amendatory Act of 1991 is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(19) After consultation with the U.S. Army Corps of Engineers, to establish binding emergency orders upon the concurrence of a majority of the members of the Board regarding the navigability of water, relative to excursions, in the event of extreme weather conditions, acts of God or other extreme circumstances.

(20) To delegate the execution of any of its powers under this Act for the purpose of administering and enforcing this Act and its rules and regulations hereunder.

(21) To take any other action as may be reasonable or appropriate to enforce this Act and rules and regulations hereunder.

(d) The Board may seek and shall receive the cooperation of the Department of State Police in conducting background investigations of applicants and in fulfilling its responsibilities under this Section. Costs incurred by the Department of State Police as a result of such cooperation shall be paid by the Board in conformance with the requirements of Section 2605-400 of the Department of State Police Law (20 ILCS 2605/2605-400).

(e) The Board must authorize to each investigator and to any other employee of the Board exercising the powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by the Board and (ii) contains a unique identifying number. No other badge shall be authorized by the Board.

(Source: P.A. 91-40, eff. 1-1-00; 91-239, eff. 1-1-00; 91-883, eff. 1-1-01.)

(230 ILCS 10/5.5 new)

Sec. 5.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Gaming Board, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 09-05, filed April 1, 2009.

(230 ILCS 10/13) (from Ch. 120, par. 2413)

Sec. 13. Wagering tax; rate; distribution.

(a) Until January 1, 1998, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this Act at the rate of 20%.

(a-1) From January 1, 1998 until July 1, 2002, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

20% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;

25% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;

30% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;

35% of annual adjusted gross receipts in excess of \$100,000,000.

(a-2) From July 1, 2002 until July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;

27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding

- \$75,000,000;
- 32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;
- 45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;
- 50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-3) Beginning July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$37,500,000;
- 32.5% of annual adjusted gross receipts in excess of \$37,500,000 but not exceeding \$50,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 45% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 50% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$250,000,000;
- 70% of annual adjusted gross receipts in excess of \$250,000,000.

An amount equal to the amount of wagering taxes collected under this subsection (a-3) that are in addition to the amount of wagering taxes that would have been collected if the wagering tax rates under subsection (a-2) were in effect shall be paid into the Common School Fund.

The privilege tax imposed under this subsection (a-3) shall no longer be imposed beginning on the earlier of (i) July 1, 2005; (ii) the first date after June 20, 2003 that riverboat gambling operations are conducted pursuant to a dormant license; or (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act. For the purposes of this subsection (a-3), the term "dormant license" means an owners license that is authorized by this Act under which no riverboat gambling operations are being conducted on June 20, 2003.

(a-4) Beginning on the first day on which the tax imposed under subsection (a-3) is no longer imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;
- 45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;
- 50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-8) Riverboat gambling operations conducted by a licensed manager on behalf of the State are not subject to the tax imposed under this Section.

(a-10) The taxes imposed by this Section shall be paid by the licensed owner to the Board not later than 3:00 o'clock p.m. of the day after the day when the wagers were made.

(a-15) If the privilege tax imposed under subsection (a-3) is no longer imposed pursuant to item (i) of the last paragraph of subsection (a-3), then by June 15 of each year, each owners licensee, other than an owners licensee that admitted 1,000,000 persons or fewer in calendar year 2004, must, in addition to the payment of all amounts otherwise due under this Section, pay to the Board a reconciliation payment in

the amount, if any, by which the licensed owner's base amount exceeds the amount of net privilege tax paid by the licensed owner to the Board in the then current State fiscal year. A licensed owner's net privilege tax obligation due for the balance of the State fiscal year shall be reduced up to the total of the amount paid by the licensed owner in its June 15 reconciliation payment. The obligation imposed by this subsection (a-15) is binding on any person, firm, corporation, or other entity that acquires an ownership interest in any such owners license. The obligation imposed under this subsection (a-15) terminates on the earliest of: (i) July 1, 2007, (ii) the first day after the effective date of this amendatory Act of the 94th General Assembly that riverboat gambling operations are conducted pursuant to a dormant license, (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act, or (iv) the first day that a licensee under the Illinois Horse Racing Act of 1975 conducts gaming operations with slot machines or other electronic gaming devices. The Board must reduce the obligation imposed under this subsection (a-15) by an amount the Board deems reasonable for any of the following reasons: (A) an act or acts of God, (B) an act of bioterrorism or terrorism or a bioterrorism or terrorism threat that was investigated by a law enforcement agency, or (C) a condition beyond the control of the owners licensee that does not result from any act or omission by the owners licensee or any of its agents and that poses a hazardous threat to the health and safety of patrons. If an owners licensee pays an amount in excess of its liability under this Section, the Board shall apply the overpayment to future payments required under this Section.

For purposes of this subsection (a-15):

"Act of God" means an incident caused by the operation of an extraordinary force that cannot be foreseen, that cannot be avoided by the exercise of due care, and for which no person can be held liable.

"Base amount" means the following:

For a riverboat in Alton, \$31,000,000.

For a riverboat in East Peoria, \$43,000,000.

For the Empress riverboat in Joliet, \$86,000,000.

For a riverboat in Metropolis, \$45,000,000.

For the Harrah's riverboat in Joliet, \$114,000,000.

For a riverboat in Aurora, \$86,000,000.

For a riverboat in East St. Louis, \$48,500,000.

For a riverboat in Elgin, \$198,000,000.

"Dormant license" has the meaning ascribed to it in subsection (a-3).

"Net privilege tax" means all privilege taxes paid by a licensed owner to the Board under this Section, less all payments made from the State Gaming Fund pursuant to subsection (b) of this Section.

The changes made to this subsection (a-15) by Public Act 94-839 are intended to restate and clarify the intent of Public Act 94-673 with respect to the amount of the payments required to be made under this subsection by an owners licensee to the Board.

(b) Until January 1, 1998, 25% of the tax revenue deposited in the State Gaming Fund under this Section shall be paid, subject to appropriation by the General Assembly, to the unit of local government which is designated as the home dock of the riverboat. Beginning January 1, 1998, from the tax revenue deposited in the State Gaming Fund under this Section, an amount equal to 5% of adjusted gross receipts generated by a riverboat shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat. From the tax revenue deposited in the State Gaming Fund pursuant to riverboat gambling operations conducted by a licensed manager on behalf of the State, an amount equal to 5% of adjusted gross receipts generated pursuant to those riverboat gambling operations shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat upon which those riverboat gambling operations are conducted.

(c) Appropriations, as approved by the General Assembly, may be made from the State Gaming Fund to the Board, the Department of Revenue, and the Department of State Police for the administration and enforcement of this Act, or to the Department of Human Services for the administration of programs to treat problem gambling.

(c-5) Before May 26, 2006 (the effective date of Public Act 94-804) and beginning on the effective date of this amendatory Act of the 95th General Assembly, unless any organization licensee under the Illinois Horse Racing Act of 1975 begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, after the payments required under subsections (b) and (c) have been made, an amount equal to 15% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat

gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund into the Horse Racing Equity Fund.

(c-10) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid into the Horse Racing Equity Fund pursuant to subsection (c-5) in the prior calendar year.

(c-15) After the payments required under subsections (b), (c), and (c-5) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid, subject to appropriation from the General Assembly, from the State Gaming Fund to each home rule county with a population of over 3,000,000 inhabitants for the purpose of enhancing the county's criminal justice system.

(c-20) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid to each home rule county with a population of over 3,000,000 inhabitants pursuant to subsection (c-15) in the prior calendar year.

(c-25) After the payments required under subsections (b), (c), (c-5) and (c-15) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund to Chicago State University.

(d) From time to time, the Board shall transfer the remainder of the funds generated by this Act into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois.

(e) Nothing in this Act shall prohibit the unit of local government designated as the home dock of the riverboat from entering into agreements with other units of local government in this State or in other states to share its portion of the tax revenue.

(f) To the extent practicable, the Board shall administer and collect the wagering taxes imposed by this Section in a manner consistent with the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, and 10 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act.

(Source: P.A. 94-673, eff. 8-23-05; 94-804, eff. 5-26-06; 94-839, eff. 6-6-06; 95-331, eff. 8-21-07; 95-1008, eff. 12-15-08.)

Section 1210. The Liquor Control Act of 1934 is amended by changing Sections 3-12, 5-1, 6-8, 6-29.1, 7A-2, 7A-3, 7A-4, 7A-5, and 7A-6 and by adding Section 3-15 as follows:

(235 ILCS 5/3-12) (from Ch. 43, par. 108)

Sec. 3-12. Powers and duties of State Commission.

(a) The State commission shall have the following powers, functions and duties:

(1) To receive applications and to issue licenses to manufacturers, foreign importers, importing distributors, distributors, non-resident dealers, on premise consumption retailers, off premise sale retailers, special event retailer licensees, special use permit licenses, auction liquor licenses, brew pubs, caterer retailers, non-beverage users, railroads, including owners and lessees of sleeping, dining and cafe cars, airplanes, boats, brokers, and wine maker's premises licensees in accordance with the provisions of this Act, and to suspend or revoke such licenses upon the State commission's determination, upon notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. Except in the case of an action taken pursuant to a violation of Section 6-3, 6-5, or 6-9, any action by the State Commission to suspend or revoke a licensee's license may be limited to the license for the specific premises where the violation occurred.

In lieu of suspending or revoking a license, the commission may impose a fine, upon the State commission's determination and notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. The fine imposed under this paragraph may not exceed \$500 for each violation. Each day that the activity, which gave rise to the original fine, continues is a separate violation. The maximum fine that may be levied against any licensee, for the period of the license, shall not exceed \$20,000. The maximum penalty that may be imposed on a licensee for selling a bottle of alcoholic liquor with a foreign object in it or serving from a bottle of alcoholic liquor with a foreign object in it shall be the destruction of that bottle of alcoholic liquor for the first 10 bottles so sold or served from by the

licensee. For the eleventh bottle of alcoholic liquor and for each third bottle thereafter sold or served from by the licensee with a foreign object in it, the maximum penalty that may be imposed on the licensee is the destruction of the bottle of alcoholic liquor and a fine of up to \$50.

(2) To adopt such rules and regulations consistent with the provisions of this Act which shall be necessary to carry on its functions and duties to the end that the health, safety and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted and to distribute copies of such rules and regulations to all licensees affected thereby.

(3) To call upon other administrative departments of the State, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it deems necessary in the performance of its duties.

(4) To recommend to local commissioners rules and regulations, not inconsistent with the law, for the distribution and sale of alcoholic liquors throughout the State.

(5) To inspect, or cause to be inspected, any premises in this State where alcoholic liquors are manufactured, distributed, warehoused, or sold.

(5.1) Upon receipt of a complaint or upon having knowledge that any person is engaged in business as a manufacturer, importing distributor, distributor, or retailer without a license or valid license, to notify the local liquor authority, file a complaint with the State's Attorney's Office of the county where the incident occurred, or initiate an investigation with the appropriate law enforcement officials.

(5.2) To issue a cease and desist notice to persons shipping alcoholic liquor into this State from a point outside of this State if the shipment is in violation of this Act.

(5.3) To receive complaints from licensees, local officials, law enforcement agencies, organizations, and persons stating that any licensee has been or is violating any provision of this Act or the rules and regulations issued pursuant to this Act. Such complaints shall be in writing, signed and sworn to by the person making the complaint, and shall state with specificity the facts in relation to the alleged violation. If the Commission has reasonable grounds to believe that the complaint substantially alleges a violation of this Act or rules and regulations adopted pursuant to this Act, it shall conduct an investigation. If, after conducting an investigation, the Commission is satisfied that the alleged violation did occur, it shall proceed with disciplinary action against the licensee as provided in this Act.

(6) To hear and determine appeals from orders of a local commission in accordance with the provisions of this Act, as hereinafter set forth. Hearings under this subsection shall be held in Springfield or Chicago, at whichever location is the more convenient for the majority of persons who are parties to the hearing.

(7) The commission shall establish uniform systems of accounts to be kept by all retail licensees having more than 4 employees, and for this purpose the commission may classify all retail licensees having more than 4 employees and establish a uniform system of accounts for each class and prescribe the manner in which such accounts shall be kept. The commission may also prescribe the forms of accounts to be kept by all retail licensees having more than 4 employees, including but not limited to accounts of earnings and expenses and any distribution, payment, or other distribution of earnings or assets, and any other forms, records and memoranda which in the judgment of the commission may be necessary or appropriate to carry out any of the provisions of this Act, including but not limited to such forms, records and memoranda as will readily and accurately disclose at all times the beneficial ownership of such retail licensed business. The accounts, forms, records and memoranda shall be available at all reasonable times for inspection by authorized representatives of the State commission or by any local liquor control commissioner or his or her authorized representative. The commission, may, from time to time, alter, amend or repeal, in whole or in part, any uniform system of accounts, or the form and manner of keeping accounts.

(8) In the conduct of any hearing authorized to be held by the commission, to appoint, at the commission's discretion, hearing officers to conduct hearings involving complex issues or issues that will require a protracted period of time to resolve, to examine, or cause to be examined, under oath, any licensee, and to examine or cause to be examined the books and records of such licensee; to hear testimony and take proof material for its information in the discharge of its duties hereunder; to administer or cause to be administered oaths; for any such purpose to issue subpoena or subpoenas to require the attendance of witnesses and the production of books, which shall be effective in any part of this State, and to adopt rules to implement its powers under this paragraph (8).

Any Circuit Court may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the State commission and the court may compel

obedience to its order by proceedings for contempt.

(9) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him or her to the legislature of this State, such amendments to this Act, if any, as it may think desirable and as will serve to further the general broad purposes contained in Section 1-2 hereof.

(10) To adopt such rules and regulations consistent with the provisions of this Act which shall be necessary for the control, sale or disposition of alcoholic liquor damaged as a result of an accident, wreck, flood, fire or other similar occurrence.

(11) To develop industry educational programs related to responsible serving and selling, particularly in the areas of overserving consumers and illegal underage purchasing and consumption of alcoholic beverages.

(11.1) To license persons providing education and training to alcohol beverage sellers and servers under the Beverage Alcohol Sellers and Servers Education and Training (BASSET) programs and to develop and administer a public awareness program in Illinois to reduce or eliminate the illegal purchase and consumption of alcoholic beverage products by persons under the age of 21. Application for a license shall be made on forms provided by the State Commission.

(12) To develop and maintain a repository of license and regulatory information.

(13) On or before January 15, 1994, the Commission shall issue a written report to the Governor and General Assembly that is to be based on a comprehensive study of the impact on and implications for the State of Illinois of Section 1926 of the Federal ADAMHA Reorganization Act of 1992 (Public Law 102-321). This study shall address the extent to which Illinois currently complies with the provisions of P.L. 102-321 and the rules promulgated pursuant thereto.

As part of its report, the Commission shall provide the following essential information:

- (i) the number of retail distributors of tobacco products, by type and geographic area, in the State;
- (ii) the number of reported citations and successful convictions, categorized by type and location of retail distributor, for violation of the Sale of Tobacco to Minors Act and the Smokeless Tobacco Limitation Act;
- (iii) the extent and nature of organized educational and governmental activities that are intended to promote, encourage or otherwise secure compliance with any Illinois laws that prohibit the sale or distribution of tobacco products to minors; and
- (iv) the level of access and availability of tobacco products to individuals under the age of 18.

To obtain the data necessary to comply with the provisions of P.L. 102-321 and the requirements of this report, the Commission shall conduct random, unannounced inspections of a geographically and scientifically representative sample of the State's retail tobacco distributors.

The Commission shall consult with the Department of Public Health, the Department of Human Services, the Illinois State Police and any other executive branch agency, and private organizations that may have information relevant to this report.

The Commission may contract with the Food and Drug Administration of the U.S. Department of Health and Human Services to conduct unannounced investigations of Illinois tobacco vendors to determine compliance with federal laws relating to the illegal sale of cigarettes and smokeless tobacco products to persons under the age of 18.

(14) On or before April 30, 2008 and every 2 years thereafter, the Commission shall present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of the 95th General Assembly on the business of soliciting, selling, and shipping wine from inside and outside of this State directly to residents of this State. As part of its report, the Commission shall provide all of the following information:

- (A) The amount of State excise and sales tax revenues generated.
- (B) The amount of licensing fees received.
- (C) The number of cases of wine shipped from inside and outside of this State directly to residents of this State.
- (D) The number of alcohol compliance operations conducted.
- (E) The number of winery shipper's licenses issued.
- (F) The number of each of the following: reported violations; cease and

desist notices issued by the Commission; notices of violations issued by the Commission ~~and to the Department of Revenue~~; and notices and complaints of violations to law enforcement officials, including, without limitation, the Illinois Attorney General and the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(15) As a means to reduce the underage consumption of alcoholic liquors, the Commission shall conduct alcohol compliance operations to investigate whether businesses that are soliciting, selling, and shipping wine from inside or outside of this State directly to residents of this State are licensed by this State or are selling or attempting to sell wine to persons under 21 years of age in violation of this Act.

(16) The Commission shall, in addition to notifying any appropriate law enforcement agency, submit notices of complaints or violations of Sections 6-29 and 6-29.1 by persons who do not hold a winery shipper's license under this amendatory Act to the Illinois Attorney General and to the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(17) (A) A person licensed to make wine under the laws of another state who has a winery shipper's license under this amendatory Act and annually produces less than 25,000 gallons of wine or a person who has a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license under this Act and annually produces less than 25,000 gallons of wine may make application to the Commission for a self-distribution exemption to allow the sale of not more than 5,000 gallons of the exemption holder's wine to retail licensees per year.

(B) In the application, which shall be sworn under penalty of perjury, such person shall state (1) the date it was established; (2) its volume of production and sales for each year since its establishment; (3) its efforts to establish distributor relationships; (4) that a self-distribution exemption is necessary to facilitate the marketing of its wine; and (5) that it will comply with the liquor and revenue laws of the United States, this State, and any other state where it is licensed.

(C) The Commission shall approve the application for a self-distribution exemption if such person: (1) is in compliance with State revenue and liquor laws; (2) is not a member of any affiliated group that produces more than 25,000 gallons of wine per annum or produces any other alcoholic liquor; (3) will not annually produce for sale more than 25,000 gallons of wine; and (4) will not annually sell more than 5,000 gallons of its wine to retail licensees.

(D) A self-distribution exemption holder shall annually certify to the Commission its production of wine in the previous 12 months and its anticipated production and sales for the next 12 months. The Commission may fine, suspend, or revoke a self-distribution exemption after a hearing if it finds that the exemption holder has made a material misrepresentation in its application, violated a revenue or liquor law of Illinois, exceeded production of 25,000 gallons of wine in any calendar year, or become part of an affiliated group producing more than 25,000 gallons of wine or any other alcoholic liquor.

(E) Except in hearings for violations of this Act or amendatory Act or a bona fide investigation by duly sworn law enforcement officials, the Commission, or its agents, the Commission shall maintain the production and sales information of a self-distribution exemption holder as confidential and shall not release such information to any person.

(F) The Commission shall issue regulations governing self-distribution exemptions consistent with this Section and this Act.

(G) Nothing in this subsection (17) shall prohibit a self-distribution exemption holder from entering into or simultaneously having a distribution agreement with a licensed Illinois distributor.

(H) It is the intent of this subsection (17) to promote and continue orderly markets. The General Assembly finds that in order to preserve Illinois' regulatory distribution system it is necessary to create an exception for smaller makers of wine as their wines are frequently adjusted in varietals, mixes, vintages, and taste to find and create market niches sometimes too small for distributor or importing distributor business strategies. Limited self-distribution rights will afford and allow smaller makers of wine access to the marketplace in order to develop a customer base without impairing the integrity of the 3-tier system.

(b) On or before April 30, 1999, the Commission shall present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of 1998 on the business of soliciting, selling, and shipping alcoholic liquor from outside of this State directly to residents of this State.

As part of its report, the Commission shall provide the following information:

(i) the amount of State excise and sales tax revenues generated as a result of this amendatory Act of 1998;

(ii) the amount of licensing fees received as a result of this amendatory Act of 1998;

(iii) the number of reported violations, the number of cease and desist notices issued by the Commission, the number of notices of violations issued to the Commission Department of

Revenue, and the number of notices and complaints of violations to law enforcement officials.  
(Source: P.A. 95-634, eff. 6-1-08.)

(235 ILCS 5/3-15 new)

Sec. 3-15. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Liquor Control Commission, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003).

(235 ILCS 5/5-1) (from Ch. 43, par. 115)

Sec. 5-1. Licenses issued by the Illinois Liquor Control Commission shall be of the following classes:

(a) Manufacturer's license - Class 1. Distiller, Class 2. Rectifier, Class 3. Brewer, Class 4. First Class Wine Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6. First Class Winemaker, Class 7. Second Class Winemaker, Class 8. Limited Wine Manufacturer,

(b) Distributor's license,

(c) Importing Distributor's license,

(d) Retailer's license,

(e) Special Event Retailer's license (not-for-profit),

(f) Railroad license,

(g) Boat license,

(h) Non-Beverage User's license,

(i) Wine-maker's premises license,

(j) Airplane license,

(k) Foreign importer's license,

(l) Broker's license,

(m) Non-resident dealer's license,

(n) Brew Pub license,

(o) Auction liquor license,

(p) Caterer retailer license,

(q) Special use permit license,

(r) Winery shipper's license.

No person, firm, partnership, corporation, or other legal business entity that is engaged in the manufacturing of wine may concurrently obtain and hold a wine-maker's license and a wine manufacturer's license.

(a) A manufacturer's license shall allow the manufacture, importation in bulk, storage, distribution and sale of alcoholic liquor to persons without the State, as may be permitted by law and to licensees in this State as follows:

Class 1. A Distiller may make sales and deliveries of alcoholic liquor to distillers, rectifiers, importing distributors, distributors and non-beverage users and to no other licensees.

Class 2. A Rectifier, who is not a distiller, as defined herein, may make sales and deliveries of alcoholic liquor to rectifiers, importing distributors, distributors, retailers and non-beverage users and to no other licensees.

Class 3. A Brewer may make sales and deliveries of beer to importing distributors, distributors, and to non-licensees, and to retailers provided the brewer obtains an importing distributor's license or distributor's license in accordance with the provisions of this Act.

Class 4. A first class wine-manufacturer may make sales and deliveries of up to 50,000 gallons of wine to manufacturers, importing distributors and distributors, and to no other licensees.

Class 5. A second class wine manufacturer may make sales and deliveries of more than 50,000 gallons of wine to manufacturers, importing distributors and distributors and to no other licensees.

Class 6. A first-class wine-maker's license shall allow the manufacture of up to 50,000 gallons of wine per year, and the storage and sale of such wine to distributors in the State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a first-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General

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Class 7. A second-class wine-maker's license shall allow the manufacture of between 50,000 and 150,000 gallons of wine per year, and the storage and sale of such wine to distributors in this State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a second-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General Assembly.

Class 8. A limited wine-manufacturer may make sales and deliveries not to exceed 40,000 gallons of wine per year to distributors, and to non-licensees in accordance with the provisions of this Act.

(a-1) A manufacturer which is licensed in this State to make sales or deliveries of alcoholic liquor and which enlists agents, representatives, or individuals acting on its behalf who contact licensed retailers on a regular and continual basis in this State must register those agents, representatives, or persons acting on its behalf with the State Commission.

Registration of agents, representatives, or persons acting on behalf of a manufacturer is fulfilled by submitting a form to the Commission. The form shall be developed by the Commission and shall include the name and address of the applicant, the name and address of the manufacturer he or she represents, the territory or areas assigned to sell to or discuss pricing terms of alcoholic liquor, and any other questions deemed appropriate and necessary. All statements in the forms required to be made by law or by rule shall be deemed material, and any person who knowingly misstates any material fact under oath in an application is guilty of a Class B misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions, or suppression of material facts in the securing of a registration are grounds for suspension or revocation of the registration.

(b) A distributor's license shall allow the wholesale purchase and storage of alcoholic liquors and sale of alcoholic liquors to licensees in this State and to persons without the State, as may be permitted by law.

(c) An importing distributor's license may be issued to and held by those only who are duly licensed distributors, upon the filing of an application by a duly licensed distributor, with the Commission and the Commission shall, without the payment of any fee, immediately issue such importing distributor's license to the applicant, which shall allow the importation of alcoholic liquor by the licensee into this State from any point in the United States outside this State, and the purchase of alcoholic liquor in barrels, casks or other bulk containers and the bottling of such alcoholic liquors before resale thereof, but all bottles or containers so filled shall be sealed, labeled, stamped and otherwise made to comply with all provisions, rules and regulations governing manufacturers in the preparation and bottling of alcoholic liquors. The importing distributor's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers and foreign importers only.

(d) A retailer's license shall allow the licensee to sell and offer for sale at retail, only in the premises specified in the license, alcoholic liquor for use or consumption, but not for resale in any form. Nothing in this amendatory Act of the 95th General Assembly shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to transfer, deliver, or ship alcoholic liquor to the purchaser for use or consumption subject to any applicable local law or ordinance. Any retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the State Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

(e) A special event retailer's license (not-for-profit) shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer) and shall allow the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form and only at the location and on the specific dates designated for the special event in the license. An applicant for a special event retailer license must (i) furnish with the application: (A) a resale number issued under Section 2c of the Retailers' Occupation Tax Act or evidence that the applicant is registered under Section 2a of the Retailers' Occupation Tax Act, (B) a current, valid exemption identification number issued under Section 1g of the Retailers' Occupation Tax Act, and a certification to the Commission that the purchase of alcoholic liquors will be a tax-exempt purchase, or (C) a statement that the applicant is not registered under Section 2a of the

Retailers' Occupation Tax Act, does not hold a resale number under Section 2c of the Retailers' Occupation Tax Act, and does not hold an exemption number under Section 1g of the Retailers' Occupation Tax Act, in which event the Commission shall set forth on the special event retailer's license a statement to that effect; (ii) submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance in the maximum limits; and (iii) show proof satisfactory to the State Commission that the applicant has obtained local authority approval.

(f) A railroad license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on a club, buffet, lounge or dining car operated on an electric, gas or steam railway in this State; and provided further, that railroad licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. A railroad license shall also permit the licensee to sell or dispense alcoholic liquors on any club, buffet, lounge or dining car operated on an electric, gas or steam railway regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A license shall be obtained for each car in which such sales are made.

(g) A boat license shall allow the sale of alcoholic liquor in individual drinks, on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Riverboat Gambling Act, which boat or riverboat maintains a public dining room or restaurant thereon.

(h) A non-beverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed manufacturer or importing distributor, without the imposition of any tax upon the business of such licensed manufacturer or importing distributor as to such alcoholic liquor to be used by such licensee solely for the non-beverage purposes set forth in subsection (a) of Section 8-1 of this Act, and such licenses shall be divided and classified and shall permit the purchase, possession and use of limited and stated quantities of alcoholic liquor as follows:

Class 1, not to exceed .....	500 gallons
Class 2, not to exceed .....	1,000 gallons
Class 3, not to exceed .....	5,000 gallons
Class 4, not to exceed .....	10,000 gallons
Class 5, not to exceed .....	50,000 gallons

(i) A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license not more than 50,000 gallons of the first-class wine-maker's wine that is made at the first-class wine-maker's licensed premises per year for use or consumption, but not for resale in any form. A wine-maker's premises license shall allow a licensee who concurrently holds a second-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license up to 100,000 gallons of the second-class wine-maker's wine that is made at the second-class wine-maker's licensed premises per year for use or consumption but not for resale in any form. A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license or a second-class wine-maker's license to sell and offer for sale at retail at the premises specified in the wine-maker's premises license, for use or consumption but not for resale in any form, any beer, wine, and spirits purchased from a licensed distributor. Upon approval from the State Commission, a wine-maker's premises license shall allow the licensee to sell and offer for sale at (i) the wine-maker's licensed premises and (ii) at up to 2 additional locations for use and consumption and not for resale. Each location shall require additional licensing per location as specified in Section 5-3 of this Act. A wine-maker's premises licensee shall secure liquor liability insurance coverage in an amount at least equal to the maximum liability amounts set forth in subsection (a) of Section 6-21 of this Act.

(j) An airplane license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on an airplane; and provided further, that airplane licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. An airplane licensee shall also permit the sale or dispensing of alcoholic liquors on any passenger airplane regularly operated by a common carrier in this State, but

shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A single airplane license shall be required of an airline company if liquor service is provided on board aircraft in this State. The annual fee for such license shall be as determined in Section 5-3.

(k) A foreign importer's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers only, and to import alcoholic liquor other than in bulk from any point outside the United States and to sell such alcoholic liquor to Illinois licensed importing distributors and to no one else in Illinois; provided that (i) the foreign importer registers with the State Commission every brand of alcoholic liquor that it proposes to sell to Illinois licensees during the license period, (ii) the foreign importer complies with all of the provisions of Section 6-9 of this Act with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale, and (iii) the foreign importer complies with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers.

(l) (i) A broker's license shall be required of all persons who solicit orders for, offer to sell or offer to supply alcoholic liquor to retailers in the State of Illinois, or who offer to retailers to ship or cause to be shipped or to make contact with distillers, rectifiers, brewers or manufacturers or any other party within or without the State of Illinois in order that alcoholic liquors be shipped to a distributor, importing distributor or foreign importer, whether such solicitation or offer is consummated within or without the State of Illinois.

No holder of a retailer's license issued by the Illinois Liquor Control Commission shall purchase or receive any alcoholic liquor, the order for which was solicited or offered for sale to such retailer by a broker unless the broker is the holder of a valid broker's license.

The broker shall, upon the acceptance by a retailer of the broker's solicitation of an order or offer to sell or supply or deliver or have delivered alcoholic liquors, promptly forward to the Illinois Liquor Control Commission a notification of said transaction in such form as the Commission may by regulations prescribe.

(ii) A broker's license shall be required of a person within this State, other than a retail licensee, who, for a fee or commission, promotes, solicits, or accepts orders for alcoholic liquor, for use or consumption and not for resale, to be shipped from this State and delivered to residents outside of this State by an express company, common carrier, or contract carrier. This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act.

A broker's license under this subsection (l) shall not entitle the holder to buy or sell any alcoholic liquors for his own account or to take or deliver title to such alcoholic liquors.

This subsection (l) shall not apply to distributors, employees of distributors, or employees of a manufacturer who has registered the trademark, brand or name of the alcoholic liquor pursuant to Section 6-9 of this Act, and who regularly sells such alcoholic liquor in the State of Illinois only to its registrants thereunder.

Any agent, representative, or person subject to registration pursuant to subsection (a-1) of this Section shall not be eligible to receive a broker's license.

(m) A non-resident dealer's license shall permit such licensee to ship into and warehouse alcoholic liquor into this State from any point outside of this State, and to sell such alcoholic liquor to Illinois licensed foreign importers and importing distributors and to no one else in this State; provided that (i) said non-resident dealer shall register with the Illinois Liquor Control Commission each and every brand of alcoholic liquor which it proposes to sell to Illinois licensees during the license period, (ii) it shall comply with all of the provisions of Section 6-9 hereof with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale, and (iii) the non-resident dealer shall comply with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers.

(n) A brew pub license shall allow the licensee to manufacture beer only on the premises specified in the license, to make sales of the beer manufactured on the premises to importing distributors, distributors, and to non-licensees for use and consumption, to store the beer upon the premises, and to sell and offer for sale at retail from the licensed premises, provided that a brew pub licensee shall not sell for off-premises consumption more than 50,000 gallons per year.

(o) A caterer retailer license shall allow the holder to serve alcoholic liquors as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal, either on or off-site whether licensed or unlicensed.

(p) An auction liquor license shall allow the licensee to sell and offer for sale at auction wine and spirits for use or consumption, or for resale by an Illinois liquor licensee in accordance with provisions of this Act. An auction liquor license will be issued to a person and it will permit the auction liquor licensee to hold the auction anywhere in the State. An auction liquor license must be obtained for each

auction at least 14 days in advance of the auction date.

(q) A special use permit license shall allow an Illinois licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the license hereby created, and to sell or offer for sale at retail, only in the premises specified in the license hereby created, the transferred alcoholic liquor for use or consumption, but not for resale in any form. A special use permit license may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12 month period. An applicant for the special use permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval.

(r) A winery shipper's license shall allow a person with a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license or who is licensed to make wine under the laws of another state to ship wine made by that licensee directly to a resident of this State who is 21 years of age or older for that resident's personal use and not for resale. Prior to receiving a winery shipper's license, an applicant for the license must provide the Commission with a true copy of its current license in any state in which it is licensed as a manufacturer of wine. An applicant for a winery shipper's license must also complete an application form that provides any other information the Commission deems necessary. The application form shall include an acknowledgement consenting to the jurisdiction of the Commission, ~~the Illinois Department of Revenue~~, and the courts of this State concerning the enforcement of this Act and any related laws, rules, and regulations, including authorizing ~~the Department of Revenue and~~ the Commission to conduct audits for the purpose of ensuring compliance with this amendatory Act.

A winery shipper licensee must pay to the Department of Revenue the State liquor gallonage tax under Section 8-1 for all wine that is sold by the licensee and shipped to a person in this State. For the purposes of Section 8-1, a winery shipper licensee shall be taxed in the same manner as a manufacturer of wine. A licensee who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit use tax to the Department of Revenue for all gallons of wine that are sold by the licensee and shipped to persons in this State. If a licensee fails to remit the tax imposed under this Act in accordance with the provisions of Article VIII of this Act, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act. If a licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act.

A winery shipper licensee must collect, maintain, and submit to the Commission on a semi-annual basis the total number of cases per resident of wine shipped to residents of this State. A winery shipper licensed under this subsection (r) must comply with the requirements of Section 6-29 of this amendatory Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-634, eff. 6-1-08; 95-769, eff. 7-29-08.)

(235 ILCS 5/6-29.1)

Sec. 6-29.1. Direct shipments of alcoholic liquor.

(a) The General Assembly makes the following findings:

(1) The General Assembly of Illinois, having reviewed this Act in light of the United States Supreme Court's 2005 decision in *Granolm v. Heald*, has determined to conform that law to the constitutional principles enunciated by the Court in a manner that best preserves the temperance, revenue, and orderly distribution values of this Act.

(2) Minimizing automobile accidents and fatalities, domestic violence, health problems, loss of productivity, unemployment, and other social problems associated with dependency and imprudent use of alcoholic beverages remains the policy of Illinois.

(3) To the maximum extent constitutionally feasible, Illinois desires to collect sufficient revenue from excise and use taxes on alcoholic beverages for the purpose of responding to such social problems.

(4) Combined with family education and individual discipline, retail validation of age, and assessment of the capacity of the consumer remains the best pre-sale social protection against the problems associated with the abuse of alcoholic liquor.

(5) Therefore, the paramount purpose of this amendatory Act is to continue to carefully limit direct shipment sales of wine produced by makers of wine and to continue to prohibit such direct shipment sales for spirits and beer.

For these reasons, the Commission shall establish a system to notify the out-of-state trade of this prohibition and to detect violations. The Commission shall request the Attorney General to extradite any offender.

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(b) Pursuant to the Twenty-First Amendment of the United States Constitution allowing states to regulate the distribution and sale of alcoholic liquor and pursuant to the federal Webb-Kenyon Act declaring that alcoholic liquor shipped in interstate commerce must comply with state laws, the General Assembly hereby finds and declares that selling alcoholic liquor from a point outside this State through various direct marketing means, such as catalogs, newspapers, mailers, and the Internet, directly to residents of this State poses a serious threat to the State's efforts to prevent youths from accessing alcoholic liquor; to State revenue collections; and to the economy of this State.

Any person manufacturing, distributing, or selling alcoholic liquor who knowingly ships or transports or causes the shipping or transportation of any alcoholic liquor from a point outside this State to a person in this State who does not hold a manufacturer's, distributor's, importing distributor's, or non-resident dealer's license issued by the Liquor Control Commission, other than a shipment of sacramental wine to a bona fide religious organization, a shipment authorized by Section 6-29, subparagraph (17) of Section 3-12, or any other shipment authorized by this Act, is in violation of this Act.

The Commission, upon determining, after investigation, that a person has violated this Section, shall give notice to the person by certified mail to cease and desist all shipments of alcoholic liquor into this State and to withdraw from this State within 5 working days after receipt of the notice all shipments of alcoholic liquor then in transit.

Whenever the Commission has reason to believe that a person has failed to comply with the Commission notice under this Section, it shall ~~notify the Department of Revenue and~~ file a complaint with the State's Attorney of the county where the alcoholic liquor was delivered or with appropriate law enforcement officials.

Failure to comply with the notice issued by the Commission under this Section constitutes a business offense for which the person shall be fined not more than \$1,000 for a first offense, not more than \$5,000 for a second offense, and not more than \$10,000 for a third or subsequent offense. Each shipment of alcoholic liquor delivered in violation of the cease and desist notice shall constitute a separate offense.

(Source: P.A. 95-634, eff. 6-1-08.)

(235 ILCS 5/7A-2) (from Ch. 43, par. 157b)

Sec. 7A-2. On and after August 1, 1937, it shall be unlawful for any warehouseman to receive, hold, store or deliver any alcoholic liquors without a certificate of registration from the Commission Department. Application for a certificate of registration shall be made to the Commission Department and shall state: (1) The name of the applicant; (2) the address of his warehouse (if he operates more than one such warehouse, he shall state the address of each such warehouse). Upon the receipt of the application in proper form, the Commission Department shall issue to such applicant a certificate of registration bearing a distinctive number which he shall conspicuously display on the premises for which it is issued. The applications shall be made on forms prepared and furnished by the Commission Department and shall contain such other information as the Commission Department may reasonably require to carry out the provisions of this Act.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-3) (from Ch. 43, par. 157c)

Sec. 7A-3. It shall be unlawful for any person to store any alcoholic liquors with or deliver any alcoholic liquors to any warehouseman who has not received a certificate of registration from the Commission Department.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-4) (from Ch. 43, par. 157d)

Sec. 7A-4. On or before the fifteenth day of each calendar month, every warehouseman holding a certificate of registration under this Article shall file a return with the Commission Department covering the preceding calendar month stating:

1. The name of the warehouseman and the number of his certificate of registration;
2. The address of the warehouse;

3. The name and address of each person from whom any alcoholic liquors were actually or constructively received by him as a warehouseman, the date on which same were so received, the number and size of the containers in which any alcoholic liquors were so received, and the number and size of the containers to the credit of each such person at the end of the preceding calendar month; and

4. The name and address of each person to whom any alcoholic liquors were actually or constructively delivered by him as a warehouseman, the date on which same were so delivered, the number and size of the containers in which any alcoholic liquors were so delivered and from whom any alcoholic liquors so delivered were actually or constructively received.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-5) (from Ch. 43, par. 157e)

Sec. 7A-5. Each warehouseman included in this Article shall keep or cause to be kept, at his registered address, a record showing all alcoholic liquors actually or constructively received by him as a warehouseman, held, stored or actually or constructively delivered by him as a warehouseman, the name and address of the person depositing same, the name and address of the person to whom delivered and any other information necessary to the proper conduct of such warehouse. Such records shall, at all times during business hours of the day, be subject to inspection by the Commission Department or its duly authorized agents and employees. Such records shall be preserved for a period of two (2) years, unless the Commission Department, in writing, authorizes their destruction or disposal at an earlier date. Such records, reflecting business done at any time after July 1, 1945, shall be preserved for a period of three (3) years, unless the Commission Department, in writing, authorizes their destruction or disposal at an earlier date.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-6) (from Ch. 43, par. 157f)

Sec. 7A-6. Any person who violates any of the provisions of this Article or any of the rules and regulations of the Commission Department for the administration and enforcement of the provisions of this Article is guilty of a Class B misdemeanor. In case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

(Source: P.A. 82-783.)

Section 1220. The Environmental Protection Act is amended by changing Section 5 as follows:  
(415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

Sec. 5. Pollution Control Board.

(a) There is hereby created an independent board to be known as the Pollution Control Board.

Until July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 7 technically qualified members, no more than 4 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

The term of each appointed member of the Board who is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later.

Beginning on July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 5 technically qualified members, no more than 3 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate. Members shall have verifiable technical, academic, or actual experience in the field of pollution control or environmental law and regulation.

Of the members initially appointed pursuant to this amendatory Act of the 93rd General Assembly, one shall be appointed for a term ending July 1, 2004, 2 shall be appointed for terms ending July 1, 2005, and 2 shall be appointed for terms ending July 1, 2006. Thereafter, all members shall hold office for 3 years from the first day of July in the year in which they were appointed, except in case of an appointment to fill a vacancy. In case of a vacancy in the office when the Senate is not in session, the Governor may make a temporary appointment until the next meeting of the Senate, when he or she shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate, shall hold the office during the remainder of the term.

Members of the Board shall hold office until their respective successors have been appointed and qualified. Any member may resign from office, such resignation to take effect when a successor has been appointed and has qualified.

Board members shall be paid \$37,000 per year or an amount set by the Compensation Review Board, whichever is greater, and the Chairman shall be paid \$43,000 per year or an amount set by the Compensation Review Board, whichever is greater. Each member shall devote his or her entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment, or vocation. Each member shall be reimbursed for expenses necessarily incurred and shall make a financial disclosure upon appointment.

Each Board member may employ one secretary and one assistant, and the Chairman one secretary and 2 assistants. The Board also may employ and compensate hearing officers to preside at hearings under this Act, and such other personnel as may be necessary. Hearing officers shall be attorneys licensed to practice law in Illinois.

The Board may have an Executive Director; if so, the Executive Director shall be appointed by the

Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Board.

The Governor shall designate one Board member to be Chairman, who shall serve at the pleasure of the Governor.

The Board shall hold at least one meeting each month and such additional meetings as may be prescribed by Board rules. In addition, special meetings may be called by the Chairman or by any 2 Board members, upon delivery of 24 hours written notice to the office of each member. All Board meetings shall be open to the public, and public notice of all meetings shall be given at least 24 hours in advance of each meeting. In emergency situations in which a majority of the Board certifies that exigencies of time require the requirements of public notice and of 24 hour written notice to members may be dispensed with, and Board members shall receive such notice as is reasonable under the circumstances.

~~Four~~ ~~If there is no vacancy on the Board,~~ 4 members of the Board shall constitute a quorum to transact business. ~~The affirmative vote of at least 4 members is required for Board decisions. No ; otherwise, a majority of the Board shall constitute a quorum to transact business, and no~~ vacancy shall impair the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board shall be deemed to be the action of the Board. The Board shall keep a complete and accurate record of all its meetings.

(b) The Board shall determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of this Act.

(c) The Board shall have authority to act for the State in regard to the adoption of standards for submission to the United States under any federal law respecting environmental protection. Such standards shall be adopted in accordance with Title VII of the Act and upon adoption shall be forwarded to the Environmental Protection Agency for submission to the United States pursuant to subsections (l) and (m) of Section 4 of this Act. Nothing in this paragraph shall limit the discretion of the Governor to delegate authority granted to the Governor under any federal law.

(d) The Board shall have authority to conduct proceedings upon complaints charging violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; upon administrative citations; upon petitions for variances or adjusted standards; upon petitions for review of the Agency's final determinations on permit applications in accordance with Title X of this Act; upon petitions to remove seals under Section 34 of this Act; and upon other petitions for review of final determinations which are made pursuant to this Act or Board rule and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by this Act or any other statute or rule.

(e) In connection with any proceeding pursuant to subsection (b) or (d) of this Section, the Board may subpoena and compel the attendance of witnesses and the production of evidence reasonably necessary to resolution of the matter under consideration. The Board shall issue such subpoenas upon the request of any party to a proceeding under subsection (d) of this Section or upon its own motion.

(f) The Board may prescribe reasonable fees for permits required pursuant to this Act. Such fees in the aggregate may not exceed the total cost to the Agency for its inspection and permit systems. The Board may not prescribe any permit fees which are different in amount from those established by this Act. (Source: P.A. 95-331, eff. 8-21-07.)

Section 1230. The Hazardous Materials Emergency Act is amended by changing Section 4 as follows: (430 ILCS 50/4) (from Ch. 127, par. 1254)

Sec. 4. There is hereby created a Hazardous Materials Advisory Board, composed of 21 members as follows: the Director of the Illinois Emergency Management Agency, or his designee; the Director of Agriculture or his designee; the Chairman of the Illinois Commerce Commission or his designee; the Director of Public Health or his designee; the Director of the Environmental Protection Agency or his designee; the Secretary of Transportation or his designee; the State Fire Marshal or his designee; the Director of State Police or his designee; the Director of Natural Resources or his designee; the Illinois Attorney General or his designee; the Director of Nuclear Safety or his designee; the Executive Director of the Illinois Law Enforcement Training Standards Board or his designee; the Director of the Illinois Fire Service Institute, University of Illinois, or his designee; and a representative from the Illinois Association of Chiefs of Police; the Illinois Fire Chief's Association; the Illinois Sheriff's Association; the Illinois Emergency Services Management Association; and 4 members appointed by the Governor, one of whom shall represent volunteer firefighters, one of whom shall represent the local emergency response service and two shall represent the business community. The Chairman shall be selected by the membership from those members not representing a State agency.

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The Board shall meet within 90 days of the effective date of this amendatory Act of 1984 to select a chairman, other officers and establish an organization structure as the members deem necessary and thereafter at the call of the chair or any 11 members. A person who has been designated by the Director of his department to represent the Director on the Board shall be entitled to vote on all questions before the Board. Eleven members of the Board constitute a quorum, ~~except that where members have not been appointed or designated to the Board, a quorum shall be constituted by a simple majority of the appointed or designated membership.~~ The affirmative vote of at least 11 members is required for Board decisions.

The Board shall advise and make recommendations to the Agency regarding the reporting of an accident involving hazardous materials and to the Department regarding the placarding of transportation of hazardous materials. The Board shall design a program and develop a Statewide plan providing for a coordinating system among State agencies and departments and units of local government, for response to accidents involving hazardous materials. Every attempt shall be made to avoid requiring any person to report an accident involving hazardous materials to more than one State agency. If at all possible, the primary agency receiving the reports shall be the Illinois Emergency Management Agency, and that agency shall relay reports to other State and local agencies.

The Board shall form from among its members, an Emergency Response Training and Standards Committee. The Secretary of Transportation or his designee, the State Fire Marshal or his designee, and the representatives from the Chiefs of Police, Fire Chiefs and Sheriff's Association shall also serve on the Committee. It shall be the duty of this Committee, with final approval of the Board, to recommend standardized training courses for firefighters, police officers, and other hazardous material emergency response personnel of the State and local governments; to recommend standards for hazardous material emergency response equipment; and recommend standards for achievement levels for the various hazardous material emergency response personnel. The standardized courses shall include training for firefighters, police officers, and other hazardous material emergency response personnel described in the federal regulations relating to the placarding system that has been promulgated under the Hazardous Materials Transportation Act (P.L. 93-633).

The Board shall review and recommend the material to be provided under Sections 5.04, 5.05, and 5.06 of this Act and assure the development of a plan for those activities in Section 5.07 of this Act.

The Board shall have the duty to study and recommend to the various State agencies, local governments and the General Assembly any aspect of placarding in transportation, hazard signage systems, the training of hazardous material emergency response personnel, the equipment used in hazardous material emergency response, the planning for hazardous material emergency response, and the dissemination of information concerning these areas.

The Department of Transportation and the Illinois Emergency Management Agency shall furnish meeting facilities, staff, and other administrative needs of the Board. The Agency or the Department shall inform the Board whenever the Agency or the Department is considering the adoption of any regulations under this Act. The Agency or the Department shall send a copy of all proposed regulations to each member of the Board; the Board shall be represented at all public hearings regarding proposals for and changes in Agency or the Department regulations. The Board may, at its discretion, present the Agency or the Department with its written evaluation of the proposed regulations or changes.

Before the Department exempts any hazardous material from the placarding regulations, under Section 3 of this Act, the Board must approve the regulations providing for the exemption.

(Source: P.A. 89-445, eff. 2-7-96; 90-449, eff. 8-16-97.)

Section 1240. The Unified Code of Corrections is amended by changing Section 3-3-2 as follows:  
(730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

Sec. 3-3-2. Powers and Duties.

(a) The Parole and Pardon Board is abolished and the term "Parole and Pardon Board" as used in any law of Illinois, shall read "Prisoner Review Board." After the effective date of this amendatory Act of 1977, the Prisoner Review Board shall provide by rule for the orderly transition of all files, records, and documents of the Parole and Pardon Board and for such other steps as may be necessary to effect an orderly transition and shall:

(1) hear by at least one member and through a panel of at least 3 members decide, cases of prisoners who were sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, and who are eligible for parole;

(2) hear by at least one member and through a panel of at least 3 members decide, the conditions of parole and the time of discharge from parole, impose sanctions for violations of parole, and revoke parole for those sentenced under the law in effect prior to this amendatory Act of 1977;

provided that the decision to parole and the conditions of parole for all prisoners who were sentenced for first degree murder or who received a minimum sentence of 20 years or more under the law in effect prior to February 1, 1978 shall be determined by a majority vote of the Prisoner Review Board;

(3) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for those sentenced under the law in effect after the effective date of this amendatory Act of 1977;

(3.5) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, to impose sanctions for violations of mandatory supervised release and revoke mandatory supervised release for those serving extended supervised release terms pursuant to paragraph (4) of subsection (d) of Section 5-8-1;

(4) hear by at least 1 member and through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for alleged violation of Department rules with respect to good conduct credits pursuant to Section 3-6-3 of this Code in which the Department seeks to revoke good conduct credits, if the amount of time at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In such cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of thirty days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit for any prisoner or to increase any penalty beyond the length requested by the Department;

(5) hear by at least one member and through a panel of at least 3 members decide, the release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(6) hear by at least one member and through a panel of at least 3 members decide, all requests for pardon, reprieve or commutation, and make confidential recommendations to the Governor;

(7) comply with the requirements of the Open Parole Hearings Act;

(8) hear by at least one member and, through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for court dismissal of a frivolous lawsuit pursuant to Section 3-6-3(d) of this Code in which the Department seeks to revoke up to 180 days of good conduct credit, and if the prisoner has not accumulated 180 days of good conduct credit at the time of the dismissal, then all good conduct credit accumulated by the prisoner shall be revoked; and

(9) hear by at least 3 members, and, through a panel of at least 3 members, decide whether to grant certificates of relief from disabilities or certificates of good conduct as provided in Article 5.5 of Chapter V.

(a-5) The Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall implement a pilot project in 3 correctional institutions providing for the conduct of hearings under paragraphs (1) and (4) of subsection (a) of this Section through interactive video conferences. The project shall be implemented within 6 months after the effective date of this amendatory Act of 1996. Within 6 months after the implementation of the pilot project, the Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall report to the Governor and the General Assembly regarding the use, costs, effectiveness, and future viability of interactive video conferences for Prisoner Review Board hearings.

(b) Upon recommendation of the Department the Board may restore good conduct credit previously revoked.

(c) The Board shall cooperate with the Department in promoting an effective system of parole and mandatory supervised release.

(d) The Board shall promulgate rules for the conduct of its work, and the Chairman shall file a copy of such rules and any amendments thereto with the Director and with the Secretary of State.

(e) The Board shall keep records of all of its official actions and shall make them accessible in accordance with law and the rules of the Board.

(f) The Board or one who has allegedly violated the conditions of his parole or mandatory supervised release may require by subpoena the attendance and testimony of witnesses and the production of

documentary evidence relating to any matter under investigation or hearing. The Chairman of the Board may sign subpoenas which shall be served by any agent or public official authorized by the Chairman of the Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the State to a hearing location in the State before the Chairman of the Board or his designated agent or agents or any duly constituted Committee or Subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the State. Fees and mileage shall be vouchered for payment when the witness is discharged from further attendance.

In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the filing of such a petition, may order the person refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of that investigation or hearing. Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

Each member of the Board and any hearing officer designated by the Board shall have the power to administer oaths and to take the testimony of persons under oath.

(g) Except under subsection (a) of this Section, ~~8 a majority of the members of then appointed to the Prisoner Review Board shall constitute a quorum for the transaction of all business of the Board and the affirmative vote of at least 8 members is required for Board decisions.~~

(h) The Prisoner Review Board shall annually transmit to the Director a detailed report of its work for the preceding calendar year. The annual report shall also be transmitted to the Governor for submission to the Legislature.

(Source: P.A. 93-207, eff. 1-1-04; 94-165, eff. 7-11-05.)

Section 1250. The Illinois Human Rights Act is amended by changing Section 8-101 as follows:  
(775 ILCS 5/8-101) (from Ch. 68, par. 8-101)

Sec. 8-101. Illinois Human Rights Commission) (A) Creation; Appointments. The Human Rights Commission is created to consist of 13 members appointed by the Governor with the advice and consent of the Senate. No more than 7 members shall be of the same political party. The Governor shall designate one member as chairperson. All appointments shall be in writing and filed with the Secretary of State as a public record.

(B) Terms. Of the members first appointed, 4 shall be appointed for a term to expire on the third Monday of January, 1981, and 5 (including the Chairperson) shall be appointed for a term to expire on the third Monday of January, 1983.

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the Illinois Human Rights Commission is abolished on July 29, 1985, but the incumbent members shall continue to exercise all of the powers and be subject to all of the duties of members of the Commission until their respective successors are appointed and qualified. Subject to the provisions of subsection (A), of the 9 members appointed under Public Act 84-115, effective July 29, 1985, 5 members shall be appointed for terms to expire on the third Monday of January, 1987, and 4 members shall be appointed for terms to expire on the third Monday of January, 1989; and of the 4 additional members appointed under Public Act 84-1084, effective December 2, 1985, two shall be appointed for a term to expire on the third Monday of January, 1987, and two members shall be appointed for a term to expire on the third Monday of January, 1989.

Thereafter, each member shall serve for a term of 4 years and until his or her successor is appointed and qualified; except that any member chosen to fill a vacancy occurring otherwise than by expiration of a term shall be appointed only for the unexpired term of the member whom he or she shall succeed and until his or her successor is appointed and qualified.

(C) Vacancies. (1) In the case of vacancies on the Commission during a recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate when he or she shall appoint a person to fill the vacancy. Any person so nominated and confirmed by the Senate shall hold

office for the remainder of the term and until his or her successor is appointed and qualified.

(2) If the Senate is not in session at the time this Act takes effect, the Governor shall make temporary appointments to the Commission as in the case of vacancies.

(3) Vacancies in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Except when authorized by this Act to proceed through a 3 member panel, ~~7 a majority of the~~ members of the Commission ~~then in office~~ shall constitute a quorum. The affirmative vote of at least 7 members is required for Board decisions.

(D) Compensation. The Chairperson of the Commission shall be compensated at the rate of \$22,500 per year, or as set by the Compensation Review Board, whichever is greater, during his or her service as Chairperson, and each other member shall be compensated at the rate of \$20,000 per year, or as set by the Compensation Review Board, whichever is greater. In addition, all members of the Commission shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

(Source: P.A. 84-1308.)

Section 9990. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 9999. Effective date. This Act takes effect upon becoming law."

#### AMENDMENT NO. 2 TO SENATE BILL 1333

AMENDMENT NO. 2. Amend Senate Bill 1333, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 4, by deleting lines 12 through 17; and

on page 4, line 18, by replacing "(e)" with "(d)".

Under the rules, the foregoing **Senate Bill No. 1333**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1335

A bill for AN ACT concerning civil law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1335

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 1335

AMENDMENT NO. 1. Amend Senate Bill 1335 by replacing everything after the enacting clause with the following:

"Section 1. Short Title. This Act may be cited as the Bowling Center Act.

Section 5. Definitions. As used in this Act:

"Operator" means a person or entity that owns, manages, controls, directs, or has operational responsibility for a bowling center.

"Bowler" means a person in a bowling center for the purpose of recreational or competitive bowling.

"Bowling center" means a building, facility, or premises that provides an area specifically designed to be used by the public for recreational or competitive bowling.

"Bowling shoes" mean shoes that are specifically designed for the purpose of recreational or competitive bowling.

Section 10. Operator notice to bowlers. An operator shall post a notice in a conspicuous place near

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each bowling center entrance and exit that reads as follows: "Bowling shoes are specialized footwear and are not intended to be worn outside a bowling center because the bowling shoes may be affected by substances or materials such as: snow, ice, rain, moisture, food, or debris. Such substances or materials on bowling shoes that have been worn outside a bowling center may cause the person wearing the bowling shoes to slip, trip, stumble, or fall on the floor or alley surfaces in the bowling center."

Section 15. Civil liability. If the operator posts a notice in a conspicuous place near each bowling center entrance and exit in the form described in Section 10, the operator, except for willful and wanton misconduct, shall not be held civilly liable for injuries resulting from a slip, trip, stumble, or fall inside the bowling center solely caused by some substance or material on the bowler's bowling shoes that was acquired outside the bowling center immediately before entering or re-entering the bowling center.

Section 98. Applicability. This Act applies only to causes of action accruing on or after January 1, 2010."

Under the rules, the foregoing **Senate Bill No. 1335**, with House Amendment No. 1, was referred to the Secretary's Desk.

### REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 21, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations I: **HOUSE BILLS 2129, 2132, 2145, 2194 and 2206.**

Gaming: **Senate Floor Amendment No. 5 to Senate Bill 744; Senate Floor Amendment No. 6 to Senate Bill 744; Senate Floor Amendment No. 7 to Senate Bill 744.**

### POSTING NOTICE WAIVED

Senator Trotter moved to waive the six-day posting requirement on **House Bills numbered 2129, 2132, 2145, 2194 and 2206** so that the bills may be heard in the Committee on Appropriations I that is scheduled to meet May 21, 2009.

The motion prevailed.

### COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the Appropriations I Committee will meet in Room 212 at 3:55 o'clock p.m. and the Gaming Committee will meet in Room 400 at 4:30 o'clock p.m.

### LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bill listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 1013  
 Senate Floor Amendment No. 2 to Senate Bill 1013  
 Senate Floor Amendment No. 3 to Senate Bill 1013  
 Senate Floor Amendment No. 4 to Senate Bill 1013  
 Senate Floor Amendment No. 5 to Senate Bill 1013  
 Senate Floor Amendment No. 6 to Senate Bill 1013  
 Senate Floor Amendment No. 7 to Senate Bill 1013  
 Senate Floor Amendment No. 8 to Senate Bill 1013  
 Senate Floor Amendment No. 9 to Senate Bill 1013

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The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 3986

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Clayborne, **House Bill No. 1033**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 40; NAYS 12.

The following voted in the affirmative:

Bond	Harmon	Luechtefeld	Silverstein
Brady	Hendon	Maloney	Steans
Collins	Holmes	Martinez	Sullivan
Crotty	Hunter	Meeks	Trotter
DeLeo	Hutchinson	Millner	Viverito
Delgado	Jacobs	Muñoz	Wilhelmi
Demuzio	Jones, E.	Noland	Mr. President
Forby	Koehler	Raoul	
Frerichs	Kotowski	Rutherford	
Garrett	Lightford	Sandoval	
Haine	Link	Schoenberg	

The following voted in the negative:

Bivins	Duffy	Murphy
Burzynski	Hultgren	Pankau
Cronin	Jones, J.	Righter
Dahl	Lauzen	Syverson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sullivan, **House Bill No. 2445**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAY 1; Present 1.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Rutherford
Bivins	Garrett	Link	Sandoval
Bomke	Haine	Luechtefeld	Silverstein
Bond	Harmon	Maloney	Steans
Burzynski	Hendon	Martinez	Sullivan

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Clayborne	Holmes	Meeks	Syverson
Collins	Hultgren	Millner	Trotter
Cronin	Hunter	Muñoz	Viverito
Crotty	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	
Forby	Kotowski	Risinger	

The following voted in the negative:

Lauzen

The following voted present:

Schoenberg

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Bond, **House Bill No. 2527** was recalled from the order of third reading to the order of second reading.

Senator Bond offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 2527

AMENDMENT NO. 1. Amend House Bill 2527 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 13-1200 as follows:  
(220 ILCS 5/13-1200)

(Section scheduled to be repealed on July 1, 2009)

Sec. 13-1200. Repealer. This Article is repealed July 1, ~~2010~~ ~~2009~~.

(Source: P.A. 94-76, eff. 6-24-05; 95-9, eff. 6-30-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Bond, **House Bill No. 2527**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 49; NAYS 6.

The following voted in the affirmative:

Allthoff	Forby	Koehler	Raoul
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Bomke	Frerichs	Kotowski	Sandoval
Bond	Garrett	Lauzen	Schoenberg
Clayborne	Haine	Lightford	Silverstein
Collins	Harmon	Link	Steans
Cronin	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
Dahl	Hultgren	Meeks	Viverito
DeLeo	Hunter	Millner	Wilhelmi
Delgado	Hutchinson	Muñoz	Mr. President
Demuzio	Jacobs	Murphy	
Dillard	Jones, E.	Noland	
Duffy	Jones, J.	Pankau	

The following voted in the negative:

Bivins	Luechtefeld	Righter
Burzynski	Radogno	Rutherford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Hutchinson, **House Bill No. 2542** was recalled from the order of third reading to the order of second reading.

Senator Hutchinson offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 2542

AMENDMENT NO. 2. Amend House Bill 2542 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Sections 12-7.3, 12-7.4, and 12-7.5 as follows:

(720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

Sec. 12-7.3. Stalking.

(a) A person commits stalking when he or she, knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person

or places the person under surveillance or any combination thereof and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint; or

(3) places that person in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement, or restraint.

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

(1) follows that same person or places that same person under surveillance; and

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint; and

(3) the threat is directed towards that person or a family member of that person.

(b) Sentence. Stalking is a Class 4 felony. A second or subsequent conviction for stalking is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(6) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) "Places a person under surveillance" means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(8) "Reasonable person" means a person in the victim's situation.

(9) "Transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(b-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(e) Exemption. This Section does not apply to picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, or any exercise of the right of free speech or assembly that is otherwise lawful.

(d) For the purpose of this Section, a defendant "places a person under surveillance" by: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(e) For the purpose of this Section, "follows another person" means (i) to move in relative proximity

to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(f) For the purposes of this Section and Section 12-7.4, "bona fide labor dispute" means any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(g) For the purposes of this Section, "transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(h) For the purposes of this Section, "family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half blood, or adoption and includes a step grandparent, step parent, step brother, step sister or step child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(Source: P.A. 95-33, eff. 1-1-08.)

(720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

Sec. 12-7.4. Aggravated stalking.

(a) A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:

- (1) causes bodily harm to the victim;
- (2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(b) Sentence. Aggravated stalking is a Class 3 felony. A second or subsequent conviction for aggravated stalking is a Class 2 felony.

(c) ~~Exemptions~~ ~~Exemption~~.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise

lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements, or any

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d) For purposes of this Section, "bona fide labor dispute" has the meaning ascribed to it in Section 12-7.3.

(Source: P.A. 88-402; 88-677, eff. 12-15-94; 89-377, eff. 8-18-95.)

(720 ILCS 5/12-7.5)

Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

- (1) fear for his or her safety or the safety of a third person; or
- (2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

- (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person, or
- (2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

~~(b) As used in this Section:~~

~~"Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.~~

~~"Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.~~

~~"Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.~~

~~(b) (e) Sentence. Cyberstalking is a Class 4 felony. A second or subsequent conviction for cyberstalking is a Class 3 felony.~~

~~(c) For purposes of this Section:~~

~~(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.~~

~~(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.~~

~~(3) "Emotional distress" means significant mental suffering, anxiety or alarm.~~

~~(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.~~

~~(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.~~

~~(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.~~

~~(7) "Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.~~

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 95-849, eff. 1-1-09; revised 9-10-08.)

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes."

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The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Hutchinson, **House Bill No. 2542**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Hutchinson, **House Bill No. 2625** was recalled from the order of third reading to the order of second reading.

Senator Hutchinson offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 2625

AMENDMENT NO. 1. Amend House Bill 2625 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 5.719 as follows:  
(30 ILCS 105/5.719 new)

Sec. 5.719. The International Brotherhood of Teamsters Fund.

Section 10. The Illinois Vehicle Code is amended by adding Section 3-684 as follows:  
(625 ILCS 5/3-684 new)

Sec. 3-684. International Brotherhood of Teamsters license plate.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as International Brotherhood of Teamsters license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of

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the first division, motor vehicles of the second division weighing not more than 8,000 pounds and recreational vehicles as defined by Section 1-169 of this Code. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the plates is wholly within the discretion of the Secretary of State. Appropriate documentation, as determined by the Secretary, shall accompany the application. The Secretary, in his or her discretion, may allow the plates to be issued as vanity or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the International Brotherhood of Teamsters Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the International Brotherhood of Teamsters Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The International Brotherhood of Teamsters Fund is created as a special fund in the State treasury. All money in the International Brotherhood of Teamsters Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary of State, as grants to the Teamsters Joint Council 25 Charitable Trust, an independent organization established and registered as a tax exempt entity under Section 501(c)(3) of the Internal Revenue Code, for religious, charitable, scientific, literary, and educational purposes."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Koehler offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 2 TO HOUSE BILL 2625**

AMENDMENT NO. 2. Amend House Bill 2625, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 on page 1, by replacing line 5 with "Sections 5.719 and 5.720 as follows:"; and

on page 1, by inserting below line 8 the following:

"(30 ILCS 105/5.720 new)

Sec. 5.720. The United Auto Workers' Fund."; and

on page 1, by replacing line 10 with "Sections 3-684 and 3-685 as follows:"; and

on page 3, line 13, by replacing "purposes." with the following:

"purposes.

(625 ILCS 5/3-685 new)

Sec. 3-685. United Auto Workers license plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as United Auto Workers license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary. Appropriate documentation, as determined by the Secretary, shall accompany each application. The Secretary may allow the plates to be issued as vanity plates or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be deposited into the United Auto Workers' Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$25 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the United Auto Workers' Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

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(d) The United Auto Workers' Fund is created as a special fund in the State treasury. All moneys in the United Auto Workers' Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants for charitable purposes sponsored by Illinois local unions affiliated with the United Auto Workers."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Hutchinson, **House Bill No. 2625**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 50; NAYS 5.

The following voted in the affirmative:

Althoff	Garrett	Lauzen	Risinger
Bomke	Haine	Lightford	Sandoval
Bond	Harmon	Link	Schoenberg
Clayborne	Hendon	Maloney	Silverstein
Collins	Holmes	Martinez	Steans
Cronin	Hultgren	McCarter	Sullivan
Crotty	Hunter	Meeks	Syverson
DeLeo	Hutchinson	Millner	Trotter
Delgado	Jacobs	Muñoz	Viverito
Demuzio	Jones, E.	Murphy	Wilhelmi
Dillard	Jones, J.	Noland	Mr. President
Duffy	Koehler	Pankau	
Forby	Kotowski	Raoul	

The following voted in the negative:

Bivins	Dahl	Rutherford
Burzynski	Luechtefeld	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Murphy, **House Bill No. 3729** was recalled from the order of third reading to the order of second reading.

Senator Murphy offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 3729

AMENDMENT NO. 1. Amend House Bill 3729 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 8-3-14 as follows:  
(65 ILCS 5/8-3-14) (from Ch. 24, par. 8-3-14)

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Sec. 8-3-14. Municipal hotel operators' occupation tax.

(a) The corporate authorities of any municipality may impose a tax upon all persons engaged in such municipality in the business of renting, leasing or letting rooms in a hotel, as defined in "The Hotel Operators' Occupation Tax Act," at a rate not to exceed 6% in the City of East Peoria and in the Village of Morton and 5% in all other municipalities of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act, and may provide for the administration and enforcement of the tax, and for the collection thereof from the persons subject to the tax, as the corporate authorities determine to be necessary or practicable for the effective administration of the tax.

(b) Persons subject to any tax imposed pursuant to authority granted by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under "The Hotel Operators' Occupation Tax Act".

(c) Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

(d) Except as provided in subsection (e), the ~~The~~ amounts collected by any municipality pursuant to this Section shall be expended by the municipality solely to promote tourism and conventions within that municipality or otherwise to attract nonresident overnight visitors to the municipality.

(e) In a county with a population of 3,000,000 or more inhabitants, any municipality that has a local tourism and convention bureau, certified by the State prior to January 1, 1991, that is a department of the municipality staffed with at least one full-time paid employee of the municipality whose sole function is to promote tourism development within the bureau's designated service area may expend the amounts collected pursuant to this Section for any municipal purpose including, but not limited to, promoting tourism and conventions within the municipality.

(f) If the corporate authorities of any municipality use the amounts collected pursuant to subsection (e) for purposes other than promoting tourism within the municipality, then the corporate authorities must enact an ordinance authorizing such use of the funds before the approval of the municipality's annual budget or appropriation ordinance, as applicable.

(g) No funds received pursuant to this Section shall be used to advertise for or otherwise promote new competition in the hotel business.

(Source: P.A. 95-967, eff. 9-23-08.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Murphy, **House Bill No. 3729**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

YEAS 11; NAYS 28.

The following voted in the affirmative:

Bomke	Duffy	McCarter	Righter
Burzynski	Hultgren	Millner	Syverson
Dillard	Koehler	Murphy	

The following voted in the negative:

Althoff	Hendon	Luechtefeld	Steans
Bivins	Holmes	Maloney	Sullivan

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Bond	Hunter	Meeks	Viverito
Cronin	Hutchinson	Noland	Wilhelmi
Dahl	Jones, E.	Radogno	
Delgado	Kotowski	Raoul	
Forby	Lauzen	Rutherford	
Haine	Link	Sandoval	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

### MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 47

A bill for AN ACT concerning finance.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 47

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

### AMENDMENT NO. 1 TO SENATE BILL 47

AMENDMENT NO. 1. Amend Senate Bill 47 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Procurement Code is amended by changing Section 20-80 as follows:  
(30 ILCS 500/20-80)

Sec. 20-80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. For each State contract for goods, supplies, or services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the goods, supplies, or services on the contract obligation document as required by the Comptroller. If the contract obligation document that is submitted to the Comptroller contains the rate and unit of measurement of the goods, supplies, or services, the Comptroller shall provide that information on his or her official website. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Professional and artistic services contracts. No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of service at the same location during any fiscal year unless the contract is reduced to writing before the services are performed and filed with the Comptroller. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to

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writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:

(1) a written contract covering the services, and

(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.

A copy of this affidavit shall be filed with the Auditor General. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-904, eff. 7-6-00.)"

Under the rules, the foregoing **Senate Bill No. 47**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 89

A bill for AN ACT concerning revenue.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 89

House Amendment No. 2 to SENATE BILL NO. 89

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 89

AMENDMENT NO. 1. Amend Senate Bill 89 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 9-45 as follows:

(35 ILCS 200/9-45)

Sec. 9-45. Property index number system. The county clerk in counties of 3,000,000 or more inhabitants and, subject to the approval of the county board, the chief county assessment officer or recorder, in counties of less than 3,000,000 inhabitants, may establish a property index number system under which property may be listed for purposes of assessment, collection of taxes or automation of the office of the recorder. The system may be adopted in addition to, or instead of, the method of listing by legal description as provided in Section 9-40. The system shall describe property by township, section, block, and parcel or lot, and may cross-reference the street or post office address, if any, and street code number, if any. The county clerk, county treasurer, chief county assessment officer or recorder may establish and maintain cross indexes of numbers assigned under the system with the complete legal description of the properties to which the numbers relate. Index numbers shall be assigned by the county clerk in counties of 3,000,000 or more inhabitants, and, at the direction of the county board in counties with less than 3,000,000 inhabitants, shall be assigned by the chief county assessment officer or recorder. Tax maps of the county clerk, county treasurer or chief county assessment officer shall carry those numbers. The indexes shall be open to public inspection and be made available to the public. Any property index number system established prior to the effective date of this Code shall remain valid. However, in counties with less than 3,000,000 inhabitants, the system may be transferred to another authority upon the approval of the county board.

Any real property used for a power generating or automotive manufacturing facility located within a county of less than 1,000,000 inhabitants, as to which litigation with respect to its assessed valuation is pending or was pending as of January 1, 1993, may be the subject of a real property tax assessment settlement agreement among the taxpayer and taxing districts in which it is situated. In addition, any real property that is (i) used for natural gas extraction and fractionation or olefin and polymer manufacturing

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and (ii) located within a county of less than 1,000,000 inhabitants may be the subject of a real property tax assessment settlement agreement among the taxpayer and taxing districts in which the property is situated with respect to property tax liability for taxable year 2009 and thereafter if litigation with respect to the assessed valuation of the property was pending at the time the agreement was signed. Other appropriate authorities, which may include county and State boards or officials, may also be parties to such ~~agreements~~ ~~an agreement~~. Such ~~agreements~~ ~~an agreement~~ may include the assessment of the facility or property for any years in dispute as well as for up to 10 years in the future. Such ~~agreements~~ ~~an agreement~~ may provide for the settlement of issues relating to the assessed value of the facility and may provide for related payments, refunds, claims, credits against taxes and liabilities in respect to past and future taxes of taxing districts, including any fund created under Section 20-35 of this Act, all implementing the settlement agreement. Any such agreement may provide that parties thereto agree not to challenge assessments as provided in the agreement. An agreement entered into on or after January 1, 1993 may provide for the classification of property that is the subject of the agreement as real or personal during the term of the agreement and thereafter. It may also provide that taxing districts agree to reimburse the taxpayer for amounts paid by the taxpayer in respect to taxes for the real property which is the subject of the agreement to the extent levied by those respective districts, over and above amounts which would be due if the facility were to be assessed as provided in the agreement. Such reimbursement may be provided in the agreement to be made by credit against taxes of the taxpayer. No credits shall be applied against taxes levied with respect to debt service or lease payments of a taxing district. No referendum approval or appropriation shall be required for such an agreement or such credits and any such obligation shall not constitute indebtedness of the taxing district for purposes of any statutory limitation. The county collector shall treat credited amounts as if they had been received by the collector as taxes paid by the taxpayer and as if remitted to the district. A county treasurer who is a party to such an agreement may agree to hold amounts paid in escrow as provided in the agreement for possible use for paying taxes until conditions of the agreement are met and then to apply these amounts as provided in the agreement. No such settlement agreement shall be effective unless it shall have been approved by the court in which such litigation is pending. Any such agreement which has been entered into prior to adoption of this amendatory Act of 1988 and which is contingent upon enactment of authorizing legislation shall be binding and enforceable.

(Source: P.A. 88-455; 88-535; 88-670, eff. 12-2-94.)

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

#### AMENDMENT NO. 2 TO SENATE BILL 89

AMENDMENT NO. 2. Amend Senate Bill 89, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 3, by replacing lines 5 through 8 with the following: "if litigation is or was pending as to its assessed valuation as of January 1, 2003 or thereafter. Other appropriate authorities, which may include".

Under the rules, the foregoing **Senate Bill No. 89**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1975

A bill for AN ACT concerning revenue.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1975

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 1975

AMENDMENT NO. 1. Amend Senate Bill 1975 on page 25, by deleting lines 1 through 7.

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Under the rules, the foregoing **Senate Bill No. 1975**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2026

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2026

Passed the House, as amended, May 21, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2026**

AMENDMENT NO. 1. Amend Senate Bill 2026 by replacing lines 24 through 26 on page 9 and lines 1 and 2 on page 10 with the following:

"(o) The use of an eavesdropping camera or audio device during an ongoing hostage or barricade situation by a law enforcement officer or individual acting on behalf of a law enforcement officer when the use of such device is necessary to protect the safety of the general public, hostages, or law enforcement officers or anyone acting on their behalf."

Under the rules, the foregoing **Senate Bill No. 2026**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 65

A bill for AN ACT concerning civil law.

Passed the House, May 21, 2009.

MARK MAHONEY, Clerk of the House

At the hour of 3:59 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

**AFTER RECESS**

At the hour of 6:08 o'clock p.m., the Senate resumed consideration of business.  
Senator Harmon, presiding.

**LEGISLATIVE MEASURE FILED**

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 2652

[May 21, 2009]

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 350

### JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 51

Motion to Concur in House Amendment 1 to Senate Bill 206

Motion to Concur in House Amendment 1 to Senate Bill 340

Motion to Concur in House Amendment 1 to Senate Bill 1737

### REPORTS FROM STANDING COMMITTEES

Senator Trotter, Chairperson of the Committee on Appropriations I, to which was referred **House Bills Numbered 2129, 2132, 2145, 2194 and 2206**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Link, Chairperson of the Committee on Gaming, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 5 to Senate Bill 744

Senate Amendment No. 6 to Senate Bill 744

Senate Amendment No. 7 to Senate Bill 744

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Trotter, **House Bill No. 2129** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 2132** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 2145** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 2194** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 2206** was taken up, read by title a second time and ordered to a third reading.

At the hour of 6:12 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, May 22, 2009, at 10:00 o'clock a.m.

[May 21, 2009]