



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

108TH LEGISLATIVE DAY

WEDNESDAY, MAY 12, 2004

2:35 O'CLOCK P.M.

SENATE
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108th Legislative Day

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The Senate met pursuant to adjournment.
 Senator Patrick Welch, Peru, Illinois, presiding.
 Prayer by Rabbi Michael Datz, Temple B'rith Sholom, Springfield, Illinois.
 Senator Link led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 11, 2004, was being read when on motion of Senator Haine, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

LEGISLATIVE MEASURES FILED

The following Committee amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Committee Amendment No. 2 to House Bill 422

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

Senate Floor Amendment No. 2 to House Bill 956
 Senate Floor Amendment No. 1 to House Bill 1336
 Senate Floor Amendment No. 3 to House Bill 1875
 Senate Floor Amendment No. 4 to House Bill 2587
 Senate Floor Amendment No. 2 to House Bill 4154
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 Senate Floor Amendment No. 2 to House Bill 5129

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 Rules:

Motion to Concur in House Amendment 1 to Senate Bill 2858

REPORTS FROM STANDING COMMITTEES

Senator Link, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 1 to House Bill 827
 Senate Amendment No. 1 to House Bill 828
 Senate Amendment No. 1 to House Bill 829
 Senate Amendment No. 1 to House Bill 830
 Senate Amendment No. 1 to House Bill 831
 Senate Amendment No. 1 to House Bill 832
 Senate Amendment No. 1 to House Bill 835
 Senate Amendment No. 1 to House Bill 869
 Senate Amendment No. 1 to House Bill 5157
 Senate Amendment No. 2 to House Bill 6583
 Senate Amendments numbered 1 and 2 to House Bill 6760

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Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 729
 Senate Amendment No. 2 to House Bill 742
 Senate Amendment No. 1 to House Bill 976
 Senate Amendment No. 2 to House Bill 3150

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Schoenberg, Chairperson of the Committee on State Government, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 5023
 Senate Amendment No. 1 to House Bill 6983

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator del Valle, Chairperson of the Committee on Education, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 753
 Senate Amendment No. 1 to House Bill 755
 Senate Amendment No. 1 to House Bill 756
 Senate Amendment No. 1 to House Bill 758
 Senate Amendment No. 1 to House Bill 770
 Senate Amendment No. 2 to House Bill 4225
 Senate Amendment No. 1 to House Bill 5215

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Jacobs, Chairperson of the Committee on Insurance and Pensions, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 1 to House Bill 587
 Senate Amendment No. 1 to House Bill 1075

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Haine, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 1 to House Bill 826
 Senate Amendment No. 1 to House Bill 837
 Senate Amendment No. 1 to House Bill 839
 Senate Amendment No. 1 to House Bill 4108

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 578
 Senate Amendment No. 1 to House Bill 956
 Senate Amendment No. 1 to House Bill 958
 Senate Amendment No. 1 to House Bill 1018
 Senate Amendment No. 1 to House Bill 1020
 Senate Amendment No. 1 to House Bill 1041
 Senate Amendment No. 2 to House Bill 1080
 Senate Amendment No. 1 to House Bill 4566

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Garrett, Vice-Chairperson of the Committee on Transportation, to which was referred the following Senate floor amendments reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 1 to House Bill 718
 Senate Amendment No. 1 to House Bill 720
 Senate Amendment No. 1 to House Bill 4012
 Senate Amendment No. 1 to House Bill 6567
 Senate Amendment No. 1 to House Bill 7015

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Clayborne, Chairperson of the Committee on Environment and Energy, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 1 to House Bill 833
 Senate Amendment No. 1 to House Bill 874
 Senate Amendment No. 1 to House Bill 916
 Senate Amendment No. 3 to House Bill 5094

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Obama, Chairperson of the Committee on Health and Human Services, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 2 to House Bill 679
 Senate Amendment No. 2 to House Bill 686
 Senate Amendments numbered 1, 2 and 3 to House Bill 752
 Senate Amendment No. 1 to House Bill 1086
 Senate Amendment No. 2 to House Bill 2268
 Senate Amendment No. 2 to House Bill 4475
 Senate Amendment No. 1 to House Bill 4558
 Senate Amendment No. 2 to House Bill 4612
 Senate Amendment No. 1 to House Bill 4818
 Senate Amendment No. 2 to House Bill 5057

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Ronen, Chairperson of the Committee on Labor and Commerce, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 921
 Senate Amendment No. 5 to House Bill 4241
 Senate Amendment No. 1 to House Bill 4450

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

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Senator Munoz, Chairperson of the Committee on Licensed Activities, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 2 to House Bill 2981
Senate Amendment No. 1 to House Bill 7029

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 532

Offered by Senator Bomke and all Senators:
Mourns the death of Silver Suarez of Springfield.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

Senator Walsh offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 533

WHEREAS, Firefighters are part of an unselfish organization of men and women who hold devotion to duty above personal risk and count dedication to service above personal comfort and convenience; and

WHEREAS, Firefighters carry on the tradition of service to their community and strive unceasingly to find better ways of protecting their fellow human beings from the ravages of fire and disaster; and

WHEREAS, Dedicated firefighters from across Illinois respond to the urgent call for assistance and put their lives and personal safety at risk to save the lives and property of Illinois citizens; and

WHEREAS, The Illinois Firefighter Memorial recognizes the firefighters who have given their lives in the line of duty and to those who heroically serve with courage, pride, and honor; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the second Thursday of May of each year hereafter shall be known as the "Illinois Medal of Honor and Firefighter Memorial Day" throughout the State of Illinois.

Senators Althoff - Winkel - D. Sullivan - Risinger - J. Jones, Luechtefeld, Bomke and Brady offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 80

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the report of the Compensation Review Board filed in the year 2004 as provided in the Compensation Review Act is hereby approved insofar as the report does not recommend any increase in salary level; and be it further

RESOLVED, That the recommended restoration of the cost of living adjustments set forth in that report is reduced in whole proportionately in accordance with Section 5 of that Act by rejecting the adjustments otherwise applicable beginning July 1, 2002 and July 1, 2003 under Senate Joint Resolution 192 of the 86th General Assembly; and be it further

RESOLVED, That a copy of this resolution be directed to the Compensation Review Board.

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EXCUSED FROM ATTENDANCE

On motion of Senator Burzynski, Senator Cronin was excused from attendance due to personal reasons.

On motion of Senator Welch, Senator Shadid was excused from attendance due to family illness.

SENATE BILL RECALLED

On motion of Senator Sandoval, **Senate Bill No. 3150** was recalled from the order of third reading to the order of second reading.

Senator Sandoval offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend Senate Bill 3150, AS AMENDED, in Section 10, in the sentence beginning "Any local ordinance", by replacing "the consent of the owner or the owner's agent and, if different" with "the consent of the owner or the owner's agent, or if different"; and

in Section 15, after "real property required by ordinance has not been completed", by inserting "or"; and

in Section 15, after "been corrected or completed", by inserting "."; and

in Section 15, by deleting "or that the owner or the real property to be conveyed is in violation of the local ordinance."; and

in Section 25, after "inspections of residential property that is", by inserting "(i)"; and

in Section 25, after "constructed but not yet occupied", by inserting ", or (ii) is open and vacant".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended was ordered to a third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator E. Jones, **House Bill No. 1660** was taken up, read by title a second time.

Floor Amendment No. 1 was held in the Committee on Health and Human Services.

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

On motion of Senator Lightford, **House Bill No. 3979** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator E. Jones, **House Bill No. 4005** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4005 on page 1, in line 11 by replacing "Management Act" with "Management Agency Act".

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

On motion of Senator Munoz, **House Bill No. 4057** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Schoenberg, **House Bill No. 4154** was taken up, read by title a second time.

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Floor Amendment No. 1 was postponed in the Committee on Health and Human Services.
 Floor Amendment No. 2 was referred to Rules earlier today.
 There being no further amendments, the bill was ordered to a third reading.

On motion of Senator E. Jones, **House Bill No. 4197** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Health and Human Services, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 4197 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 2-3.123 as follows:
 (105 ILCS 5/2-3.123)

Sec. 2-3.123. Giant Steps ~~Autism Center for Excellence pilot program~~. From appropriations made for purposes of this Section, the State Board of Education, in consultation with the Illinois Board of Higher Education, shall implement ~~and administer~~ a Giant Steps Autism Center for Excellence pilot program for the study and evaluation of autism and to provide related teacher training and other services. The program shall be operated over a period of 3 school years, beginning with the ~~2004-2005~~ 1997-1998 school year. The State Board of Education is authorized to make grants to school districts that apply to participate in the Giant Steps Autism Center for Excellence program ~~as implemented and administered by the State Board of Education~~. The State Board of Education shall by rule provide the form of application and criteria to be used and applied in selecting participating school districts.
 (Source: P.A. 90-498, eff. 8-18-97; 90-655, eff. 7-30-98.)

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

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

On motion of Senator Silverstein, **House Bill No. 4200** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 4200, on page 1, by deleting lines 6 through 31; and by deleting pages 2 through 25.

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

On motion of Senator DeLeo, **House Bill No. 4241** having been printed, was taken up and read by title a second time.

The following amendments were offered in the Committee on Labor and Commerce, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 4241, AS AMENDED, as follows:

in Section 5, in the definition of "covered employer", in clause (ii), by inserting after "feet," "or retail stores or distribution centers,".

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 4241, AS AMENDED, as follows:

in Section 5, in the definition of "covered employer", in clause (ii), by inserting after "centers," the following:

"or manufacturing and assembly or warehousing and logistic service facilities,".

Floor Amendments numbered 3 and 4 were held in the Committee on Rules.
Senator DeLeo offered the following amendment and moved its adoption:

AMENDMENT NO. 5

AMENDMENT NO. 5. Amend House Bill 4241, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Displaced Building Service Workers Protection Act.

Section 5. Definitions. In this Act:

"Building service" means work performed in connection with the care or maintenance of an existing building and includes, but is not limited to, work performed by a watchman, security officer, door staff, building cleaner, maintenance technician, handyman, janitor, elevator operator, window cleaner, building engineer and groundskeeper.

"Building service contract" means a contract let to any covered employer for the furnishing of building services and includes any subcontract for such services.

"Building service contractor" means any person who enters into a building service contract.

"Building service employee" means any person employed as a building service employee by a covered employer who has been regularly assigned to a building on a full or part-time basis for at least 25 working days immediately preceding any transition in employment subject to this Section except for (i) persons who are managerial, supervisory, or confidential employees, provided that this exemption shall not apply to building engineers for existing properties, (ii) persons earning in excess of \$25 per hour from a covered employer, and (iii) persons regularly scheduled to work fewer than 6 hours per week at a building.

"State of Illinois" means any city, township, administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the State treasury.

"Covered employer" means any person who owns or manages real property, either on its own behalf or for another person, or any person who contracts or subcontracts with an owner or manager of real property within the State of Illinois for real estate, including, but not limited to, housing cooperatives, condominium associations, building managing agents, and any building service contractor provided, however, that the requirements of this Act shall not apply to (i) residential buildings under 50 units, (ii) commercial office, institutional, or retail buildings of less than 75,000 square feet or retail stores or distribution centers, or manufacturing and assembly or warehousing and logistic facilities, or churches, synagogues, mosques, or places of worship, or elementary or secondary schools, (iii) any building in which the State of Illinois or any governmental entity, the head or majority of members of which are appointed by one or more officers of the State of Illinois, occupies 50% or more of the rentable square footage, (iv) any building that is owned or operated by a hospital or hospital affiliate as defined in the Hospital Licensing Act, (v) any building that is owned or operated by a public utility, public utility affiliate, telecommunications carrier, or its affiliate as defined in the Public Utilities Act or independent electric generators, or (vi) any administrative building owned and operated by a manufacturer.

"Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ persons or enter into service contracts, but shall not include the City of Chicago, the State of Illinois, and the federal government or any other entity, or any individual or entity managing real property for a governmental entity.

"Successor employer" means a covered employer that (i) has been awarded a building service contract to provide, in whole or in part, building services that are substantially similar to those provided under a service contract that has recently been terminated, or (ii) has purchased or acquired control of property in which building service employees were employed.

Section 10. Protection for building service employees.

(a) No less than 15 calendar days before terminating any building service contract, any covered employer shall request the terminated contractor to provide the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee employed on the notice date at the site or sites covered by the terminated contract.

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(b) No less than 15 calendar days before transferring a controlling interest in any covered building in which building service employees are employed, any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the transfer of controlling interest.

(c) Any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the terminated building service contract no more than 7 calendar days after notice that its building service contract has been terminated.

(d) When providing the notice required under this Section, each covered employer shall ensure that a notice to building service employees is posted setting forth the rights provided under this Section and which includes a copy of the list provided under the proceeding Sections, and that such notice is also provided to the employees' collective bargaining representative, if any. The notice and list shall be posted in the same location and manner that other statutorily required notices to employees are posted at the affected site or sites.

(e) A successor employer shall retain for a transition employment period of 25 working days at the affected site or sites those building service employees of the terminated building service contractor and its subcontractors, or other covered employer, employed at the site or sites covered by the terminated building service contract or owned or operated by the former covered employer.

(f) If at any time the successor employer determines that fewer building service employees are required to perform building services at the affected building than had been performing such services under the former employer, the successor employer shall retain the predecessor building service employees by seniority within job classification; provided that during a transition period of 25 working days, the successor employer shall maintain a preferential hiring list of those building service employees not retained at the building who shall be given a right of first refusal to any jobs within their classification that becomes available during that period.

(g) Except as provided in subsection (f), during such period of 25 working days, the successor contractor's management of the business and the direction of its personnel, including the right to hire, discipline and discharge employees for just cause is vested exclusively in the contractor. The contractor may require employees to submit to a criminal background check by the Illinois State Police and the Federal Bureau of Investigation.

(h) At the end of the transition period of 25 working days, the successor employer shall use his or her own existing practices and forms to perform a written performance evaluation for each employee retained pursuant to this Section. If the employee's performance during such period of 25 working days is satisfactory, the successor contractor shall offer the employee continued employment under the terms and conditions established by the successor employer or as required by law.

Section 15. Violation.

(a) A building service employee who has been discharged or not retained in violation of this Act may bring an action in court against a successor contractor and covered employer for violation of any obligation imposed pursuant to this Act.

(b) The court shall have the authority to order injunctive relief to prevent or remedy a violation of any obligation imposed pursuant to this Act.

(c) If the court finds that by reason of a violation of any obligation imposed pursuant to subsection (b), a building service employee has been discharged in violation of this Section, it shall award:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of (i) the average regular rate of pay received by the employee during the last 3 years of the employee's employment in the same occupation classification; or (ii) the final regular rate received by the employee.

(2) Costs of benefits the successor employer would have incurred for the employee under the successor contractor's or employer's benefit plans.

(3) The building service employee's reasonable attorney's fees and costs.

(d) In any such action, the court shall have the authority to order the terminated contractor or former employer to provide the successor employer with the information required pursuant to Section 10(c) of this Act.

Section 20. Exemptions. The provisions of this Act do not apply:

(1) To any successor employer that, on or before, the effective date of the transfer of control from a predecessor covered employer to the successor employer to the commencement of services by a successor building service contractor, agrees to assume, or to be bound by, the collective bargaining agreement of the predecessor covered building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

(2) Where there is no existing collective bargaining agreement as described in subdivision (1), to any successor employer that agrees, on or before the effective date of the transfer of control from a predecessor covered employer to the successor employer or the commencement of services by a successor building service contractor, to enter into a new collective bargaining agreement covering its building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharged or laying off of employees.

(3) To any successor employer whose building service employees will be accredited to a bargaining unit with a pre-existing collective bargaining agreement, provided that the collective bargaining agreement provides terms and conditions for the discharged or laying off of employees.

(4) To any covered employer that obtains a written commitment from a successor employer that the successor employer's building service employees will be covered by a collective bargaining agreement falling within subdivision (1), (2), or (3).

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 6 was held in the Committee on Labor and Commerce.

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

On motion of Senator Munoz, **House Bill No. 4283** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4283 by replacing everything after the enacting clause with the following:

"Section 5. The Raffles Act is amended by adding Section 8.2 as follows:

(230 ILCS 15/8.2 new)

Sec. 8.2. Exemption for certain charitable institutions.

(a) A charitable institution is not subject to the licensing provisions of subsection (a) of Section 2, items (1), (2), (3), (4), and (5) of Section 3, and the restrictions on the conduct of raffles imposed under item (5) of Section 4 if (i) the charitable institution is organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation of the institution and is exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, (ii) the net proceeds from raffles conducted by the charitable institution under this Act are used by the organization for charitable, scientific, or educational purposes related to the charitable institution, and (iii) the charitable institution obtains a license from the Department of Revenue under subsection (b).

(b) The Department of Revenue shall, upon application therefor on forms prescribed by that Department, and upon the payment of an annual fee of \$200, and upon a determination by the Department that the applicant is a charitable institution that meets the qualifications in items (i) and (ii) of subsection (a), issue a license authorizing the charitable institution to conduct raffles. A license issued under this subsection (b) shall be valid for one year. Fees collected by the Department of Revenue under this Section shall be deposited into the General Revenue Fund.

(c) All raffle tickets sold by a licensee under this Section must have the name of the licensee and the license number of the licensee printed on the ticket. The Department of Revenue shall provide by rule for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee under this Section in a single raffle, (2) the maximum retail value of each prize awarded by a licensee

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under this Section in a single raffle, (3) the maximum price that may be charged for each raffle chance issued or sold, and (4) the maximum number of days during which chances may be issued or sold. Licenses issued under this Section may be suspended or revoked by the Department for any violation of this Act. The Department of Revenue shall act on a license application within 30 days after the Department receives the application.

(d) For a charitable organization that conducts raffles under this Section, all references in Sections 5 and 6 of this Act to a licensing authority mean the Illinois Department of Revenue.

(e) In addition to the requirements set forth in this Section, a charitable institution licensed by the Department of Revenue under this Section must meet all other requirements established by the Department by rule.

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

Floor Amendment No. 2 was held in the Committee on Rules.

Floor Amendment No. 3 was held in the Committee on Licensed Activities.

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

On motion of Senator Meeks, **House Bill No. 4302** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Clayborne, **House Bill No. 4450** having been printed, was taken up and read by title a second time.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4450 by replacing everything after the enacting clause with the following:

"Section 5. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z as follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, ~~or~~ paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code or the Automatic Contract Renewal Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04.)

Section 10. The Automatic Contract Renewal Act is amended by changing Sections 10, 15, and 20 as follows:

(815 ILCS 601/10)

Sec. 10. Automatic renewal; requirements.

(a) Any person, firm, partnership, association, or corporation that sells or offers to sell any products or services to a consumer pursuant to a contract, where such contract automatically renews unless the consumer cancels the contract, shall disclose the automatic renewal clause clearly and conspicuously in the contract, including the cancellation procedure. If a contract is subject to automatic renewal, the clause providing for automatic renewal must appear in the contract in a clear and conspicuous manner.

(b) Any person, firm, partnership, association, or corporation that sells or offers to sell any products or services to a consumer pursuant to a contract, where such contract term is a specified term of 12 months or more, and where such contract automatically renews for a specified term of more than one month unless the consumer cancels the contract, shall notify the consumer in writing of the automatic renewal. Written notice shall be provided to the consumer no less than 30 days and no more than 60 days before the cancellation deadline pursuant to the automatic renewal clause. Such written notice shall disclose

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clearly and conspicuously:

(i) that unless the consumer cancels the contract it will automatically renew; and

(ii) where the consumer can obtain details of the automatic renewal provision and cancellation procedure (for example, by contacting the business at a specified telephone number or address or by referring to the contract).

(c) A person, firm, partnership, association, or corporation will not be liable for a violation of this Act or the Consumer Fraud and Deceptive Business Practices Act if such person, firm, partnership, association, or corporation demonstrates that, as part of its routine business practice:

(i) it has established and implemented written procedures to comply with this Act and enforces compliance with the procedures;

(ii) any failure to comply with this Act is the result of error; and

(iii) where an error has caused a failure to comply with this Act, it provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the account, or the date of the subsequent notice of renewal, whichever occurs first.

(Source: P.A. 91-674, eff. 6-1-00.)

(815 ILCS 601/15)

Sec. 15. Violation. A violation of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act ~~If a contract does not comply with this Act, the automatic renewal provisions are not enforceable by a party who prepared the contract or directed its preparation.~~

(Source: P.A. 91-674, eff. 6-1-00.)

(815 ILCS 601/20)

Sec. 20. Applicability.

(a) This Act does not apply to a contract entered into before the effective date of this Act.

(b) This amendatory Act of the 93rd General Assembly does not apply to a contract entered into before the effective date of this amendatory Act of the 93rd General Assembly.

(c) This Act does not apply to business-to-business contracts.

(d) This Act does not apply to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed or organized under the laws of any state of the United States.

(e) This Act does not apply to a contract that is extended beyond the original term of the contract as the result of the consumer's initiation of a change in the original contract terms.

(Source: P.A. 91-674, eff. 6-1-00.)".

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.

On motion of Senator Walsh, **House Bill No. 4475** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Health and Human Services, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4475 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Excellence in Alzheimer's Disease Center Treatment Act.

Section 5. Purpose. This Act is intended to maintain and enhance excellence in Alzheimer's disease treatment in Illinois in order to develop strategies to treat and prevent Alzheimer's disease in Illinois and across the United States, ensure that all Illinois citizens obtain the highest quality clinical care for Alzheimer's disease and other dementias, reduce the enormous societal cost of this disease, ensure that Illinois is a national center for Alzheimer's disease research, and maintain and enhance Illinois' ability to attract additional federal and private funding for these purposes.

Section 15. Definitions. As used in this Act:

"Academic medical center hospital" means a hospital located in Illinois that is either (i) under common ownership with the college of medicine of a college or university or (ii) a free-standing hospital

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in which the majority of the clinical chiefs of service are department chairmen in an affiliated medical school.

"Qualified Academic Medical Center Hospital - Pre 1996 Designation" means any academic medical center hospital that was designated by the National Institutes of Health and National Institutes on Aging as an Alzheimer's Disease Core (or Research) Center prior to calendar year 1996.

"Qualified Academic Medical Center Hospital - Post 1996 Designation" means any academic medical center hospital that was designated by the National Institutes of Health and National Institutes on Aging as an Alzheimer's Disease Core (or Research) Center in or after calendar year 1996 through calendar year 2003.

"Medicaid inpatient day of care" means each day contained in the Illinois Department of Public Aid's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring during State fiscal year 1998 and adjudicated through June 30, 1999.

Section 20. Funds created.

(a) The Alzheimer's Disease Center Clinical Fund is created as a special fund in the State treasury, to which the General Assembly shall from time to time appropriate funds and from which the Comptroller shall pay amounts as authorized by law. Appropriations made to this Fund are exempt from the provisions of Section 8h of the State Finance Act.

(b) The Alzheimer's Disease Center Expanded Clinical Fund is created as a special fund in the State treasury, to which the General Assembly shall from time to time appropriate funds and from which the Comptroller shall pay amounts as authorized by law. Appropriations made to this Fund are exempt from the provisions of Section 8h of the State Finance Act.

(c) The Alzheimer's Disease Center Independent Clinical Fund is created as a special fund in the State treasury, to which the General Assembly shall from time to time appropriate funds and from which the Comptroller shall pay amounts as authorized by law. Appropriations made to this Fund are exempt from the provisions of Section 8h of the State Finance Act.

Section 25. The Alzheimer's Disease Center Clinical Fund.

(a) Each institution defined as a Qualified Academic Medical Center Hospital - Pre 1996 Designation shall be eligible for payments from the Alzheimer's Disease Center Clinical Fund.

(b) Appropriations allocated to this Fund shall be divided among the qualifying hospitals. The Department of Public Aid shall calculate payment rates for each hospital qualifying under this Section as follows:

(1) Hospitals that qualify under the Qualified Academic Medical Center Hospital - Pre 1996 Designation shall be paid a rate of \$55.50 for each Medicaid inpatient day of care.

(2) No qualifying hospital shall receive payments under this Section that exceed \$1,200,000.

(c) Payments under this Section shall be made at least quarterly.

Section 30. The Alzheimer's Disease Center Expanded Clinical Fund.

(a) Each institution defined as a Qualified Academic Medical Center Hospital - Pre 1996 Designation or as a Qualified Academic Medical Center Hospital - Post 1996 Designation shall be eligible for payments from the Alzheimer's Disease Center Expanded Clinical Fund.

(b) Appropriations allocated to this Fund shall be divided among the qualifying hospitals. The Department of Public Aid shall calculate payment rates for each hospital qualifying under this Section as follows:

(1) Hospitals that are defined as a Qualifying Academic Medical Center Hospital - Pre 1996 Designation shall be paid \$13.90 for each Medicaid inpatient day of care.

(2) Hospitals that are defined as a Qualifying Academic Medical Center Hospital - Post 1996 Designation and do not meet the Pre 1996 Designation criterion, shall be paid \$10.75 for each Medicaid inpatient day of care.

(3) Hospitals that qualify under the Pre and Post 1996 Designation shall qualify for payments under this Section according to the payment guidelines for Pre 1996 Designated hospitals.

(4) No qualifying hospital shall receive payments under this Section that exceed \$300,000.

(c) Payments under this Section shall be made at least quarterly.

Section 35. The Alzheimer's Disease Center Independent Clinical Fund.

(a) Each institution defined as a Qualified Academic Medical Center Hospital - Pre 1996 Designation

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or as a Qualified Academic Medical Center Hospital - Post 1996 Designation may be eligible for payments from the Alzheimer's Disease Center Independent Clinical Fund.

(b) Appropriations allocated to this Fund shall be allocated to specific Qualified Academic Medical Center Hospitals (either Pre 1996 or Post 1996 Designation) for specific and unique clinical/research projects as determined by the General Assembly.

(c) Payments under this Section shall be made at least quarterly.

Section 40. Use of funds. Reimbursement for medical services under this Act eligible for federal financial participation under Title XIX of the Social Security Act shall be used for the following 6 general purposes:

(1) Clinical Care. Funds disbursed to each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) must be used to support clinical care for affected persons and their families. In addition to providing clinical care, the Qualified Academic Medical Center Hospitals (either Pre 1996 or Post 1996 Designation) shall serve as models of multi-disciplinary diagnostic and treatment facilities for Alzheimer's disease and other dementias.

(2) Underserved Community Outreach. Funds disbursed to each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) must be used to support some type of outreach program in underserved communities.

(3) Research. Funds disbursed to each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) must be used to support research on aging and dementia.

(4) Education. Funds disbursed to each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) must be used to support education regarding aging and dementia.

(5) Brain Bank. Funds should be used by each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) to support a brain banking program.

(6) Administration. Funds, as needed, may be used to cover administrative costs, facility costs, and other costs commonly incurred by clinical, research, and educational programs according to the rules governing each Qualified Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation).

Section 45. Payment of funds. The Comptroller shall disburse all funds appropriated to the Alzheimer's Disease Center Clinical Fund, the Alzheimer's Disease Center Expanded Clinical Fund, and the Alzheimer's Disease Center Independent Clinical Fund to the appropriate Qualified Academic Medical Center Hospitals (either Pre 1996 or Post 1996 Designation) as the funds are appropriated by the General Assembly and come due under this Act. The payment of these funds shall be made through the Department of Public Aid.

Section 50. Reporting requirements. Qualified Academic Medical Center Hospitals (either Pre 1996 or Post 1996 Designation) receiving payments from the Alzheimer's Disease Center Clinical Fund, the Alzheimer's Disease Center Expanded Clinical Fund, or the Alzheimer's Disease Center Independent Clinical Fund shall submit annual reports to the Department of Public Health and the ADA Advisory Committee.

Section 55. Payment methodology. The Department of Public Aid shall promulgate rules necessary to make payments to the Qualifying Academic Medical Center Hospitals (either Pre 1996 or Post 1996 Designation) utilizing a reimbursement methodology consistent with this Act for distribution of all moneys from the funds in a manner that would help ensure these funds could be matchable to the maximum extent possible under Title XIX of the Social Security Act.

Section 60. Reimbursements of payments by the State. Nothing in this Act may be used to reduce reimbursements or payments by the State to a Qualifying Academic Medical Center Hospital (either Pre 1996 or Post 1996 Designation) under any other Act.

Section 65. Contravention of law. Funds received under this Act shall not be used in contravention of any law of this State.

Section 900. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-215 as follows:

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(20 ILCS 2310/2310-215) (was 20 ILCS 2310/55.62)

Sec. 2310-215. Center for Minority Health Services.

(a) The Department shall establish a Center for Minority Health Services to advise the Department on matters pertaining to the health needs of minority populations within the State.

(b) The Center shall have the following duties:

(1) To assist in the assessment of the health needs of minority populations in the State.

(2) To recommend treatment methods and programs that are sensitive and relevant to the unique linguistic, cultural, and ethnic characteristics of minority populations.

(3) To provide consultation, technical assistance, training programs, and reference materials to service providers, organizations, and other agencies.

(4) To promote awareness of minority health concerns, and encourage, promote, and aid in the establishment of minority services.

(5) To disseminate information on available minority services.

(6) To provide adequate and effective opportunities for minority populations to express their views on Departmental policy development and program implementation.

(7) To coordinate with the Department on Aging and the Department of Public Aid to coordinate services designed to meet the needs of minority senior citizens.

(8) To promote awareness of the incidence of Alzheimer's disease and related dementias among minority populations and to encourage, promote, and aid in the establishment of prevention and treatment programs and services relating to this health problem.

(c) For the purpose of this Section, "minority" shall mean and include any person or group of persons who are:

(1) African-American (a person having origins in any of the black racial groups in Africa);

(2) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

(3) 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

(4) American Indian or Alaskan Native (a person having origins in any of the original peoples of North America).

(Source: P.A. 91-239, eff. 1-1-00.)

Section 905. The State Finance Act is amended by adding Sections 5.625, 5.626, and 5.627 as follows:
(30 ILCS 105/5.625 new)

Sec. 5.625. The Alzheimer's Disease Center Clinical Fund.

(30 ILCS 105/5.626 new)

Sec. 5.626. The Alzheimer's Disease Center Expanded Clinical Fund.

(30 ILCS 105/5.627 new)

Sec. 5.627. The Alzheimer's Disease Center Independent Clinical Fund.

Section 910. The Alzheimer's Disease Assistance Act is amended by changing Sections 2, 6, and 7 as follows:

(410 ILCS 405/2) (from Ch. 111 1/2, par. 6952)

Sec. 2. Policy declaration. The General Assembly finds that Alzheimer's disease and related disorders are devastating health conditions which destroy certain vital cells of the brain and which affect an estimated 4,500,000 ~~1,500,000~~ Americans. This means that approximately 200,000 ~~111,000~~ Illinois citizens are victims. The General Assembly also finds that 50% of all nursing home admissions in the State may be attributable to the Alzheimer's disease and related disorders and that these conditions are the fourth leading cause of death among the elderly. It is the opinion of the General Assembly that Alzheimer's disease and related disorders cause serious financial, social and emotional hardships on the victims and their families of such a major consequence that it is essential for the State to develop and implement policies, plans, programs and services to alleviate such hardships.

The General Assembly recognizes that there is no known cause or cure of Alzheimer's disease at this time, and that it can progress over an extended period of time and to such a degree that the victim's deteriorated condition makes him or her susceptible to other medical disorders that generally prove fatal. It is the intent of the General Assembly, through implementation of this Act, to establish a program for the conduct of research regarding the cause, cure and treatment of Alzheimer's disease and related disorders; and, through the establishment of Regional Alzheimer's Disease Assistance Centers and a

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comprehensive, Statewide system of regional and community-based services, to provide for the identification, evaluation, diagnosis, referral and treatment of victims of such health problems.

(Source: P.A. 85-1209.)

(410 ILCS 405/6) (from Ch. 111 1/2, par. 6956)

Sec. 6. ADA Advisory Committee. There is created the Alzheimer's Disease Advisory Committee consisting of 21 voting members appointed by the Director of the Department, as well as 5 nonvoting members as hereinafter provided in this Section. The Director or his designee shall serve as one of the 21 voting members and as the Chairman of the Committee. Those appointed as voting members shall include persons who are experienced in research and the delivery of services to victims and their families. Such members shall include 4 physicians licensed to practice medicine in all of its branches, one representative of a postsecondary educational institution which administers or is affiliated with a medical center in the State, one representative of a licensed hospital, one registered nurse, one representative of a long term care facility under the Nursing Home Care Act, one representative of an area agency on aging as defined by Section 3.07 of the Illinois Act on the Aging, one social worker, one representative of an organization established under the Illinois Insurance Code for the purpose of providing health insurance, 5 family members or representatives of victims of Alzheimer's disease and related disorders, and 4 members of the general public. Among the physician appointments shall be persons with specialties in the fields of neurology, family medicine, psychiatry and pharmacology. Among the general public members, at least 2 appointments shall include persons 65 years of age or older.

In addition to the 21 voting members, the Secretary of Human Services (or his or her designee) and one additional representative of the Department of Human Services designated by the Secretary plus the Directors of the following State agencies or their designees shall serve as nonvoting members: Department on Aging, Department of Public Aid, and Guardianship and Advocacy Commission.

Each voting member appointed by the Director of Public Health shall serve for a term of 2 years, and until his successor is appointed and qualified. Members of the Committee shall not be compensated but shall be reimbursed for expenses actually incurred in the performance of their duties. No more than 11 voting members may be of the same political party. Vacancies shall be filled in the same manner as original appointments.

The Committee shall review all State programs and services provided by State agencies that are directed toward persons with Alzheimer's disease and related dementias, and recommend changes to improve the State's response to this serious health problem.

(Source: P.A. 89-507, eff. 7-1-97.)

(410 ILCS 405/7) (from Ch. 111 1/2, par. 6957)

Sec. 7. Regional ADA center funding. Pursuant to appropriations enacted by the General Assembly, the Department shall provide funds to hospitals affiliated with each Regional ADA Center for necessary research and for the development and maintenance of services for victims of Alzheimer's disease and related disorders and their families. For the fiscal year beginning July 1, 2003, and each year thereafter, the Department shall effect payments under this Section to hospitals affiliated with each Regional ADA Center through the Illinois Department of Public Aid under the Excellence in Alzheimer's Disease Center Treatment Act. The Department of Public Aid shall annually report to the Advisory Committee established under this Act regarding the funding of centers under this Act. The Department shall include the annual expenditures for this purpose in the plan required by Section 5 of this Act.

(Source: P.A. 93-20, eff. 6-20-03.)

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

Senator Walsh offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 4475, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, line 22, by replacing "Appropriations made to this Fund are" with "This Fund is"; and

on page 2, line 28, by replacing "Appropriations made to this Fund are" with "This Fund is"; and

on page 3, line 1, by replacing "Appropriations made to this Fund are" with "This Fund is".

The motion prevailed.

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And the amendment was adopted and ordered printed.

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

On motion of Senator Soden, **House Bill No. 4489** having been printed, was taken up and read by title a second time.

Senator Dillard offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4489 on page 1, line 5, by replacing "3-628 and 3-642" with "3-628, 3-642, and 3-806.3"; and

on page 2, below line 31 by inserting the following:

"(625 ILCS 5/3-806.3) (from Ch. 95 1/2, par. 3-806.3)

Sec. 3-806.3. Senior Citizens.

~~Commencing with the 2001 registration year and extending through the 2003 registration year, the registration fee paid by any vehicle owner who has claimed and received a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-616, motor vehicles registered at 8,000 pounds or less under Section 3-815(a) and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.~~

Commencing with the 2004 registration year and extending through the 2005 registration year, the registration fee paid by any vehicle owner who has claimed and received a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, or 3-651, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

Commencing with the 2006 registration year, the registration fee paid by any vehicle owner who has claimed and received a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-607, 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, or 3-651, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

No more than one reduced registration fee under this Section shall be allowed during any 12 month period based on the primary eligibility of any individual, whether such reduced registration fee is allowed to the individual or to the spouse, widow or widower of such individual. This Section does not apply to the fee paid in addition to the registration fee for motor vehicles displaying vanity or special license plates.

(Source: P.A. 91-37, eff. 7-1-99; 92-651, eff. 7-11-02; 92-699, eff. 1-1-03.)"

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.

On motion of Senator Collins, **House Bill No. 4505** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Ronen, **House Bill No. 4558** having been printed, was taken up and read by title a second time.

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Senator Ronen offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4558 as follows:

on page 5, line 27, by deleting "media"; and

on page 6, by replacing lines 2 through 9 with the following:

"(7) Increased training opportunities for volunteers, professionals, and other caregivers to develop specific skills for assessing suicide risk and intervening to prevent suicide."

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.

On motion of Senator Collins, **House Bill No. 4566** having been printed, was taken up and read by title a second time.

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4566 on page 3, line 13, by inserting after the period the following:

"The failure of the judge to inform the delinquent minor of his or her right to petition for expungement as provided by law does not create a substantive right, nor is that failure grounds for: (i) a reversal of an adjudication of delinquency, (ii) a new trial; or (iii) an appeal."

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.

On motion of Senator Schoenberg, **House Bill No. 4612** having been printed, was taken up and read by title a second time.

Committee Amendment No. 1 was held in the Committee on Health and Human Services.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 4612 by replacing everything after the enacting clause with the following:

"Section 5. The Civil Administrative Code of Illinois is amended by changing Section 5-565 as follows:

(20 ILCS 5/5-565) (was 20 ILCS 5/6.06)

Sec. 5-565. In the Department of Public Health.

(a) The General Assembly declares it to be the public policy of this State that all citizens of Illinois are entitled to lead healthy lives. Governmental public health has a specific responsibility to ensure that a system is in place to allow the public health mission to be achieved. To develop a system requires certain core functions to be performed by government. The State Board of Health is to assume the leadership role in advising the Director in meeting the following functions:

- (1) Needs assessment.
- (2) Statewide health objectives.
- (3) Policy development.
- (4) Assurance of access to necessary services.

There shall be a State Board of Health composed of 17 persons, all of whom shall be appointed by the Governor, with the advice and consent of the Senate for those appointed by the Governor on and after June 30, 1998, and one of whom shall be a senior citizen age 60 or over. Five members shall be physicians licensed to practice medicine in all its branches, one representing a medical school faculty, one who is board certified in preventive medicine, and one 2 who ~~is~~ ~~are~~ engaged in private practice. One member shall be a dentist; one an environmental health practitioner; one a local public health administrator; one a local board of health member; one a registered nurse; one a veterinarian; one a

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public health academician; one a health care industry representative; one a representative of the business community; one a representative of the non-profit public interest community; and 2 4 shall be citizens at large.

The terms of Board of Health members shall be 3 years, except that members shall continue to serve on the Board of Health until a replacement is appointed. Upon the effective date of this amendatory Act of the 93rd General Assembly, in the appointment of the Board of Health members appointed to vacancies or positions with terms expiring on or before December 31, 2004, the Governor shall appoint up to 6 members to serve for terms of 3 years; up to 6 members to serve for terms of 2 years; and up to 5 members to serve for a term of one year, so that the term of no more than 6 members expire in the same year. In the appointment of the first Board of Health members appointed after September 19, 1991 (the effective date of Public Act 87-633), the Governor shall appoint 5 members to serve for terms of 5 years; 5 members to serve for terms of 2 years; and 5 members to serve for a term of one year. Members appointed thereafter shall be appointed for terms of 3 years, except that when an appointment is made to fill a vacancy, the appointment shall be for the remaining term of the position vacated. The initial terms for the 2 additional members of the board who are citizens at large appointed under Public Act 90-607 shall be for 3 years each, with these positions thereafter being filled as with other members appointed by the Governor. All members shall be legal residents of the State of Illinois. The duties of the Board shall include, but not be limited to, the following:

- (1) To advise the Department of ways to encourage public understanding and support of the Department's programs.
- (2) To evaluate all boards, councils, committees, authorities, and bodies advisory to, or an adjunct of, the Department of Public Health or its Director for the purpose of recommending to the Director one or more of the following:
 - (i) The elimination of bodies whose activities are not consistent with goals and objectives of the Department.
 - (ii) The consolidation of bodies whose activities encompass compatible programmatic subjects.
 - (iii) The restructuring of the relationship between the various bodies and their integration within the organizational structure of the Department.
 - (iv) The establishment of new bodies deemed essential to the functioning of the Department.
- (3) To serve as an advisory group to the Director for public health emergencies and control of health hazards.
- (4) To advise the Director regarding public health policy, and to make health policy recommendations regarding priorities to the Governor through the Director.
- (5) To present public health issues to the Director and to make recommendations for the resolution of those issues.
- (6) To recommend studies to delineate public health problems.
- (7) To make recommendations to the Governor through the Director regarding the coordination of State public health activities with other State and local public health agencies and organizations.
- (8) To report on or before February 1 of each year on the health of the residents of Illinois to the Governor, the General Assembly, and the public.
- (9) To review the final draft of all proposed administrative rules, other than emergency or preemptory rules and those rules that another advisory body must approve or review within a statutorily defined time period, of the Department after September 19, 1991 (the effective date of Public Act 87-633). The Board shall review the proposed rules within 90 days of submission by the Department. The Department shall take into consideration any comments and recommendations of the Board regarding the proposed rules prior to submission to the Secretary of State for initial publication. If the Department disagrees with the recommendations of the Board, it shall submit a written response outlining the reasons for not accepting the recommendations.
- In the case of proposed administrative rules or amendments to administrative rules regarding immunization of children against preventable communicable diseases designated by the Director under the Communicable Disease Prevention Act, after the Immunization Advisory Committee has made its recommendations, the Board shall conduct 3 public hearings, geographically distributed throughout the State. At the conclusion of the hearings, the State Board of Health shall issue a report, including its recommendations, to the Director. The Director shall take into consideration any comments or recommendations made by the Board based on these hearings.
- (10) To deliver to the Governor for presentation to the General Assembly a State Health

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Improvement Plan. The first and second such plans shall be delivered to the Governor on January 1, 2006 and on January 1, 2009 respectively, and then every 4 years thereafter.

The Plan shall recommend priorities and strategies to improve the public health system and the health status of Illinois residents, taking into consideration national health objectives and system standards as frameworks for assessment.

The Plan shall also take into consideration priorities and strategies developed at the community level through the Illinois Project for Local Assessment of Needs (IPLAN) and any regional health improvement plans that may be developed. The Plan shall focus on prevention as a key strategy for long-term health improvement in Illinois.

The Plan shall examine and make recommendations on the contributions and strategies of the public and private sectors for improving health status and the public health system in the State. In addition to recommendations on health status improvement priorities and strategies for the population of the State as a whole, the Plan shall make recommendations regarding priorities and strategies for reducing and eliminating health disparities in Illinois; including racial, ethnic, gender, age, socio-economic and geographic disparities.

The Director of the Illinois Department of Public Health shall appoint a Planning Team that includes a range of public, private, and voluntary sector stakeholders and participants in the public health system. This Team shall include: the directors of State agencies with public health responsibilities (or their designees), including but not limited to the Illinois Departments of Public Health and Department of Human Services, representatives of local health departments, representatives of local community health partnerships, and individuals with expertise who represent an array of organizations and constituencies engaged in public health improvement and prevention.

The State Board of Health shall hold at least 3 public hearings addressing drafts of the Plan in representative geographic areas of the State. Members of the Planning Team shall receive no compensation for their services, but may be reimbursed for their necessary expenses. ~~To make recommendations to the Governor through the Director concerning the development and periodic updating of Statewide health objectives encompassing, in part, the periodically published federal health objectives for the nation, which will provide the basis for the policy development and assurance roles of the State Health Department, and to make recommendations to the Governor through the Director regarding legislation and funding necessary to implement the objectives.~~

(11) Upon the request of the Governor, to recommend to the Governor candidates for Director of Public Health when vacancies occur in the position.

(12) To adopt bylaws for the conduct of its own business, including the authority to establish ad hoc committees to address specific public health programs requiring resolution.

Upon appointment, the Board shall elect a chairperson from among its members.

Members of the Board shall receive compensation for their services at the rate of \$150 per day, not to exceed \$10,000 per year, as designated by the Director for each day required for transacting the business of the Board and shall be reimbursed for necessary expenses incurred in the performance of their duties. The Board shall meet from time to time at the call of the Department, at the call of the chairperson, or upon the request of 3 of its members, but shall not meet less than 4 times per year.

(b) (Blank).

(c) An Advisory Board on Necropsy Service to Coroners, which shall counsel and advise with the Director on the administration of the Autopsy Act. The Advisory Board shall consist of 11 members, including a senior citizen age 60 or over, appointed by the Governor, one of whom shall be designated as chairman by a majority of the members of the Board. In the appointment of the first Board the Governor shall appoint 3 members to serve for terms of 1 year, 3 for terms of 2 years, and 3 for terms of 3 years. The members first appointed under Public Act 83-1538 shall serve for a term of 3 years. All members appointed thereafter shall be appointed for terms of 3 years, except that when an appointment is made to fill a vacancy, the appointment shall be for the remaining term of the position vacant. The members of the Board shall be citizens of the State of Illinois. In the appointment of members of the Advisory Board the Governor shall appoint 3 members who shall be persons licensed to practice medicine and surgery in the State of Illinois, at least 2 of whom shall have received post-graduate training in the field of pathology; 3 members who are duly elected coroners in this State; and 5 members who shall have interest and abilities in the field of forensic medicine but who shall be neither persons licensed to practice any branch of medicine in this State nor coroners. In the appointment of medical and coroner members of the Board, the Governor shall invite nominations from recognized medical and coroners organizations in this State respectively. Board members, while serving on business of the Board, shall receive actual necessary travel and subsistence expenses while so serving away from their places of residence.

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(Source: P.A. 90-607, eff. 6-30-98; 91-239, eff. 1-1-00; 91-798, eff. 7-9-00.)".

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.

On motion of Senator Collins, **House Bill No. 4856** was taken up, read by title a second time.

Floor Amendment No. 1 was postponed on the Committee on Environment and Energy.

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

On motion of Senator Schoenberg, **House Bill No. 4894** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator DeLeo, **House Bill No. 4960** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4960 by replacing everything after the enacting clause with the following:

"Section 5. The Real Estate License Act of 2000 is amended by changing Sections 1-10, 5-30, 5-50, 5-70, and 20-20 and by adding Section 15-75 as follows:

(225 ILCS 454/1-10)

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

Sec. 1-10. Definitions. In this Act, unless the context otherwise requires:

"Act" means the Real Estate License Act of 2000.

"Advisory Council" means the Real Estate Education Advisory Council created under Section 30-10 of this Act.

"Agency" means a relationship in which a real estate broker or licensee, whether directly or through an affiliated licensee, represents a consumer by the consumer's consent, whether express or implied, in a real property transaction.

"Applicant" means any person, as defined in this Section, who applies to OBRE for a valid license as a real estate broker, real estate salesperson, or leasing agent.

"Blind advertisement" means any real estate advertisement that does not include the sponsoring broker's business name and that is used by any licensee regarding the sale or lease of real estate, including his or her own, licensed activities, or the hiring of any licensee under this Act. The broker's business name in the case of a franchise shall include the franchise affiliation as well as the name of the individual firm.

"Board" means the Real Estate Administration and Disciplinary Board of OBRE.

"Branch office" means a sponsoring broker's office other than the sponsoring broker's principal office.

"Broker" means an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly:

- (1) Sells, exchanges, purchases, rents, or leases real estate.
- (2) Offers to sell, exchange, purchase, rent, or lease real estate.
- (3) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate.
- (4) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange.
- (5) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements thereon.
- (6) Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate.
- (7) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate.
- (8) Assists or directs in procuring or referring of prospects, intended to result in the sale, exchange, lease, or rental of real estate.

[May 12, 2004]

(9) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate.

(10) Opens real estate to the public for marketing purposes.

(11) Sells, leases, or offers for sale or lease real estate at auction.

"Brokerage agreement" means a written or oral agreement between a sponsoring broker and a consumer for licensed activities to be provided to a consumer in return for compensation or the right to receive compensation from another. Brokerage agreements may constitute either a bilateral or a unilateral agreement between the broker and the broker's client depending upon the content of the brokerage agreement. All exclusive brokerage agreements shall be in writing.

"Client" means a person who is being represented by a licensee.

"Commissioner" means the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead.

"Compensation" means the valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including without limitation the following:

- (1) commissions;
- (2) referral fees;
- (3) bonuses;
- (4) prizes;
- (5) merchandise;
- (6) finder fees;
- (7) performance of services;
- (8) coupons or gift certificates;
- (9) discounts;
- (10) rebates;
- (11) a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;
- (12) retainer fee; or
- (13) salary.

"Confidential information" means information obtained by a licensee from a client during the term of a brokerage agreement that (i) was made confidential by the written request or written instruction of the client, (ii) deals with the negotiating position of the client, or (iii) is information the disclosure of which could materially harm the negotiating position of the client, unless at any time:

- (1) the client permits the disclosure of information given by that client by word or conduct;
- (2) the disclosure is required by law; or
- (3) the information becomes public from a source other than the licensee.

"Confidential information" shall not be considered to include material information about the physical condition of the property.

"Consumer" means a person or entity seeking or receiving licensed activities.

"Continuing education school" means any person licensed by OBRE as a school for continuing education in accordance with Section 30-15 of this Act.

"Credit hour" means 50 minutes of classroom instruction in course work that meets the requirements set forth in rules adopted by OBRE.

"Customer" means a consumer who is not being represented by the licensee but for whom the licensee is performing ministerial acts.

"Designated agency" means a contractual relationship between a sponsoring broker and a client under Section 15-50 of this Act in which one or more licensees associated with or employed by the broker are designated as agent of the client.

"Designated agent" means a sponsored licensee named by a sponsoring broker as the legal agent of a client, as provided for in Section 15-50 of this Act.

"Director" means the Director of the Real Estate Division, OBRE.

"Dual agency" means an agency relationship in which a licensee is representing both buyer and seller or both landlord and tenant in the same transaction. When the agency relationship is a designated agency, the question of whether there is a dual agency shall be determined by the agency relationships of the designated agent of the parties and not of the sponsoring broker.

"Employee" or other derivative of the word "employee", when used to refer to, describe, or delineate the relationship between a real estate broker and a real estate salesperson, another real estate broker, or a leasing agent, shall be construed to include an independent contractor relationship, provided that a

written agreement exists that clearly establishes and states the relationship. All responsibilities of a broker shall remain.

"Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Escrow moneys includes without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased and for which the security deposit is being held.

"Exclusive brokerage agreement" means a written brokerage agreement that provides that the sponsoring broker has the sole right, through one or more sponsored licensees, to act as the exclusive designated agent or representative of the client and that meets the requirements of Section 15-75 of this Act.

"Inoperative" means a status of licensure where the licensee holds a current license under this Act, but the licensee is prohibited from engaging in licensed activities because the licensee is unlicensed or the license of the sponsoring broker with whom the licensee is associated or by whom he or she is employed is currently expired, revoked, suspended, or otherwise rendered invalid under this Act.

"Leasing Agent" means a person who is employed by a real estate broker to engage in licensed activities limited to leasing residential real estate who has obtained a license as provided for in Section 5-5 of this Act.

"License" means the document issued by OBRE certifying that the person named thereon has fulfilled all requirements prerequisite to licensure under this Act.

"Licensed activities" means those activities listed in the definition of "broker" under this Section.

"Licensee" means any person, as defined in this Section, who holds a valid unexpired license as a real estate broker, real estate salesperson, or leasing agent.

"Listing presentation" means a communication between a real estate broker or salesperson and a consumer in which the licensee is attempting to secure a brokerage agreement with the consumer to market the consumer's real estate for sale or lease.

"Managing broker" means a broker who has supervisory responsibilities for licensees in one or, in the case of a multi-office company, more than one office and who has been appointed as such by the sponsoring broker.

"Medium of advertising" means any method of communication intended to influence the general public to use or purchase a particular good or service or real estate.

"Ministerial acts" means those acts that a licensee may perform for a consumer that are informative or clerical in nature and do not rise to the level of active representation on behalf of a consumer. Examples of these acts include without limitation (i) responding to phone inquiries by consumers as to the availability and pricing of brokerage services, (ii) responding to phone inquiries from a consumer concerning the price or location of property, (iii) attending an open house and responding to questions about the property from a consumer, (iv) setting an appointment to view property, (v) responding to questions of consumers walking into a licensee's office concerning brokerage services offered or particular properties, (vi) accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property, (vii) describing a property or the property's condition in response to a consumer's inquiry, (viii) completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client, (ix) showing a client through a property being sold by an owner on his or her own behalf, or (x) referral to another broker or service provider.

"OBRE" means the Office of Banks and Real Estate.

"Office" means a real estate broker's place of business where the general public is invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business.

"Person" means and includes individuals, entities, corporations, limited liability companies, registered limited liability partnerships, and partnerships, foreign or domestic, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Personal assistant" means a licensed or unlicensed person who has been hired for the purpose of aiding or assisting a sponsored licensee in the performance of the sponsored licensee's job.

"Pocket card" means the card issued by OBRE to signify that the person named on the card is currently licensed under this Act.

"Pre-license school" means a school licensed by OBRE offering courses in subjects related to real estate transactions, including the subjects upon which an applicant is examined in determining fitness to receive a license.

"Pre-renewal period" means the period between the date of issue of a currently valid license and the

license's expiration date.

"Real estate" means and includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or non-freehold, including timeshare interests, and whether the real estate is situated in this State or elsewhere.

"Real Estate Administration and Disciplinary Board" or "Board" means the Real Estate Administration and Disciplinary Board created by Section 25-10 of this Act.

"Salesperson" means any individual, other than a real estate broker or leasing agent, who is employed by a real estate broker or is associated by written agreement with a real estate broker as an independent contractor and participates in any activity described in the definition of "broker" under this Section.

"Sponsoring broker" means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.

"Sponsor card" means the temporary permit issued by the sponsoring real estate broker certifying that the real estate broker, real estate salesperson, or leasing agent named thereon is employed by or associated by written agreement with the sponsoring real estate broker, as provided for in Section 5-40 of this Act.

(Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00; 91-603, eff. 1-1-00; 91-702, eff. 5-12-00; 92-217, eff. 8-2-01.)

(225 ILCS 454/5-30)

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

Sec. 5-30. Education requirements to obtain an original broker or salesperson license.

(a) All applicants for a broker's license, except applicants who meet the criteria set forth in subsection (c) of this Section shall (i) give satisfactory evidence of having completed at least 120 classroom hours, 45 of which shall be those hours required to obtain a salesperson's license plus 15 hours in brokerage administration courses, in real estate courses approved by the Advisory Council or (ii) for applicants who currently hold a valid real estate salesperson's license, give satisfactory evidence of having completed at least 75 hours in real estate courses, not including the courses that are required to obtain a salesperson's license, approved by the Advisory Council.

(b) All applicants for a salesperson's license, except applicants who meet the criteria set forth in subsection (c) of this Section shall give satisfactory evidence that they have completed at least 45 hours of instruction in real estate courses approved by the Advisory Council.

(c) The requirements specified in subsections (a) and (b) of this Section do not apply to applicants who ~~(1) are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing; or (2) show evidence of receiving a baccalaureate degree including courses involving real estate or related material from a college or university approved by the Advisory Council.~~

(d) A minimum of 15 of the required hours of pre-license education shall be in the areas of Article 15 of this Act, disclosure and environmental issues, or any other currently topical areas that are determined by the Advisory Council.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-50)

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

Sec. 5-50. Expiration date and renewal period of broker, salesperson, or leasing agent license; sponsoring broker; register of licensees; pocket card.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. Except as otherwise provided in Section 5-55 of this Act, the holder of a license may renew the license within 90 days preceding the expiration date thereof by paying the fees specified by rule. Upon written request from the sponsoring broker, OBRE shall prepare and mail to the sponsoring broker a listing of licensees under this Act who, according to the records of OBRE, are sponsored by that broker. Every licensee associated with or employed by a broker whose license is revoked, suspended, terminated, or expired shall be considered as inoperative until such time as the sponsoring broker's license is reinstated or renewed, or the licensee changes employment as set forth in subsection (c) of Section 5-40 of this Act.

(b) OBRE shall establish and maintain a register of all persons currently licensed by the State and shall issue and prescribe a form of pocket card. Upon payment by a licensee of the appropriate fee as prescribed by rule for engagement in the activity for which the licensee is qualified and holds a license for the current period, OBRE shall issue a pocket card to the licensee. The pocket card shall be verification that the required fee for the current period has been paid and shall indicate that the person named thereon is licensed for the current renewal period as a broker, salesperson, or leasing agent as the case may be. The pocket card shall further indicate that the person named thereon is authorized by OBRE to engage in the licensed activity appropriate for his or her status (broker, salesperson, or leasing agent). Each licensee shall carry on his or her person his or her pocket card or, if such pocket card has

not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

(c) Any person licensed as a broker shall be entitled at any renewal date to change his or her license status from broker to salesperson.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-70)

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

Sec. 5-70. Continuing education requirement; broker or salesperson.

(a) The requirements of this Section apply to all licensees ~~who have had a license for less than 15 years as of January 1, 1992.~~

(b) Except as otherwise provided in this Section, each person who applies for renewal of his or her license as a real estate broker or real estate salesperson must successfully complete real estate continuing education courses approved by the Advisory Council at the rate of 6 hours per year or its equivalent. In addition, beginning with the pre-renewal period for broker licensees that begins after the effective date of this amendatory Act of the 93rd General Assembly, to renew a real estate broker's license, the licensee must successfully complete a 6-hour broker management continuing education course approved by OBRE. Successful completion of the course shall include achieving a passing score as provided by rule on a test developed and administered in accordance with rules adopted by the OBRE. Beginning on the first day of the pre-renewal period for broker licensees that begins after the effective date of this amendatory Act of the 93rd General Assembly, the 6-hour broker management continuing education course must be completed by all persons receiving their initial broker's license within 180 days after the date of initial licensure as a broker. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the Commissioner with the recommendation of the Advisory Council. The requirements of this Article are applicable to all brokers and salespersons except those brokers and salespersons who, during the pre-renewal period:

- (1) serve in the armed services of the United States;
- (2) serve as an elected State or federal official;
- (3) serve as a full-time employee of OBRE; or
- (4) are admitted to practice law pursuant to Illinois Supreme Court rule.

(c) A person who is issued an initial license as a real estate salesperson less than one year prior to the expiration date of that license shall not be required to complete continuing education as a condition of license renewal. A person who is issued an initial license as a real estate broker less than one year prior to the expiration date of that license and who has not been licensed as a real estate salesperson during the pre-renewal period shall not be required to complete continuing education as a condition of license renewal. A person receiving an initial license as a real estate broker during the 90 days before the broker renewal date shall not be required to complete the broker management continuing education course provided for in subsection (b) of this Section as a condition of initial license renewal.

(d) The continuing education requirement for salespersons and brokers shall consist of a core curriculum and an elective curriculum, to be established by the Advisory Council. In meeting the continuing education requirements of this Act, at least 3 hours per year or their equivalent shall be required to be completed in the core curriculum. In establishing the core curriculum, the Advisory Council shall consider subjects that will educate licensees on recent changes in applicable laws and new laws and refresh the licensee on areas of the license law and OBRE policy that the Advisory Council deems appropriate, and any other areas that the Advisory Council deems timely and applicable in order to prevent violations of this Act and to protect the public. In establishing the elective curriculum, the Advisory Council shall consider subjects that cover the various aspects of the practice of real estate that are covered under the scope of this Act. However, the elective curriculum shall not include any offerings referred to in Section 5-85 of this Act.

(e) The subject areas of continuing education courses approved by the Advisory Council may include without limitation the following:

- (1) license law and escrow;
- (2) antitrust;
- (3) fair housing;
- (4) agency;
- (5) appraisal;
- (6) property management;
- (7) residential brokerage;
- (8) farm property management;

- (9) rights and duties of sellers, buyers, and brokers;
- (10) commercial brokerage and leasing; and
- (11) real estate financing.

(f) In lieu of credit for those courses listed in subsection (e) of this Section, credit may be earned for serving as a licensed instructor in an approved course of continuing education. The amount of credit earned for teaching a course shall be the amount of continuing education credit for which the course is approved for licensees taking the course.

(g) Credit hours may be earned for self-study programs approved by the Advisory Council.

(h) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

(i) No more than 6 hours of continuing education credit may be earned in one calendar day.

(j) To promote the offering of a uniform and consistent course content, the OBRE may provide for the development of a single broker management course to be offered by all continuing education providers who choose to offer the broker management continuing education course. The OBRE may contract for the development of the 6-hour broker management continuing education course with an outside vendor and, if the course is developed in this manner, the OBRE shall license the use of that course to all approved continuing education providers who wish to provide the course.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-75 new)

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

Sec. 15-75. Exclusive brokerage agreements. All exclusive brokerage agreements must specify that the sponsoring broker, through one or more sponsored licensees, must provide, at a minimum, the following services:

(1) accept delivery of and present to the client offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease;

(2) assist the client in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and

(3) answer the client's questions relating to the offers, counteroffers, notices, and contingencies.

(225 ILCS 454/20-20)

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

Sec. 20-20. Disciplinary actions; causes. OBRE may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, or may censure, reprimand, or otherwise discipline or impose a civil fine not to exceed \$25,000 upon any licensee hereunder for any one or any combination of the following causes:

(a) When the applicant or licensee has, by false or fraudulent representation, obtained or sought to obtain a license.

(b) When the applicant or licensee has been convicted of any crime, an essential element of which is dishonesty or fraud or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, has been convicted in this or another state of a crime that is a felony under the laws of this State, or has been convicted of a felony in a federal court.

(c) When the applicant or licensee has been adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the Mental Health and Developmental Disabilities Code.

(d) When the licensee performs or attempts to perform any act as a broker or salesperson in a retail sales establishment from an office, desk, or space that is not separated from the main retail business by a separate and distinct area within the establishment.

(e) Discipline of a licensee by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for discipline set forth in this Act, in which case the only issue will be whether one of the grounds for that discipline is the same or equivalent to one of the grounds for discipline under this Act.

(f) When the applicant or licensee has engaged in real estate activity without a license or after the licensee's license was expired or while the license was inoperative.

(g) When the applicant or licensee attempts to subvert or cheat on the Real Estate License Exam or continuing education exam or aids and abets an applicant to subvert or cheat on the Real Estate License Exam or continuing education exam administered pursuant to this Act.

(h) When the licensee in performing, attempting to perform, or pretending to perform any act as a broker, salesperson, or leasing agent or when the licensee in handling his or her own property, whether

held by deed, option, or otherwise, is found guilty of:

- (1) Making any substantial misrepresentation or untruthful advertising.
 - (2) Making any false promises of a character likely to influence, persuade, or induce.
 - (3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through licensees, employees, agents, advertising, or otherwise.
 - (4) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any real estate organization of which the licensee is not a member.
 - (5) Acting for more than one party in a transaction without providing written notice to all parties for whom the licensee acts.
 - (6) Representing or attempting to represent a broker other than the sponsoring broker.
 - (7) Failure to account for or to remit any moneys or documents coming into his or her possession that belong to others.
 - (8) Failure to maintain and deposit in a special account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others or failure to maintain all escrow moneys on deposit in the account until the transactions are consummated or terminated, except to the extent that the moneys, or any part thereof, shall be disbursed prior to the consummation or termination in accordance with (i) the written direction of the principals to the transaction or their duly authorized agents, (ii) directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents, or (iii) pursuant to an order of a court of competent jurisdiction. The account shall be noninterest bearing, unless the character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.
 - (9) Failure to make available to the real estate enforcement personnel of OBRE during normal business hours all escrow records and related documents maintained in connection with the practice of real estate within 24 hours of a request for those documents by OBRE personnel.
 - (10) Failing to furnish copies upon request of all documents relating to a real estate transaction to all parties executing them.
 - (11) Failure of a sponsoring broker to timely provide information, sponsor cards, or termination of licenses to OBRE.
 - (12) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
 - (13) Commingling the money or property of others with his or her own.
 - (14) Employing any person on a purely temporary or single deal basis as a means of evading the law regarding payment of commission to nonlicensees on some contemplated transactions.
 - (15) Permitting the use of his or her license as a broker to enable a salesperson or unlicensed person to operate a real estate business without actual participation therein and control thereof by the broker.
 - (16) Any other conduct, whether of the same or a different character from that specified in this Section, that constitutes dishonest dealing.
 - (17) Displaying a "for rent" or "for sale" sign on any property without the written consent of an owner or his or her duly authorized agent or advertising by any means that any property is for sale or for rent without the written consent of the owner or his or her authorized agent.
 - (18) Failing to provide information requested by OBRE, within 30 days of the request, either as the result of a formal or informal complaint to OBRE or as a result of a random audit conducted by OBRE, which would indicate a violation of this Act.
 - (19) Advertising by means of a blind advertisement, except as otherwise permitted in Section 10-30 of this Act.
 - (20) Offering guaranteed sales plans, as defined in clause (A) of this subdivision
- (20), except to the extent hereinafter set forth:
- (A) A "guaranteed sales plan" is any real estate purchase or sales plan whereby a licensee enters into a conditional or unconditional written contract with a seller by the terms of which a licensee agrees to purchase a property of the seller within a specified period of time at a specific price in the event the property is not sold in accordance with the terms of a listing contract between the sponsoring broker and the seller or on other terms acceptable to the seller.
 - (B) A licensee offering a guaranteed sales plan shall provide the details and conditions of the plan in writing to the party to whom the plan is offered.

(C) A licensee offering a guaranteed sales plan shall provide to the party to whom the plan is offered evidence of sufficient financial resources to satisfy the commitment to purchase undertaken by the broker in the plan.

(D) Any licensee offering a guaranteed sales plan shall undertake to market the property of the seller subject to the plan in the same manner in which the broker would market any other property, unless the agreement with the seller provides otherwise.

(E) Any licensee who fails to perform on a guaranteed sales plan in strict accordance with its terms shall be subject to all the penalties provided in this Act for violations thereof and, in addition, shall be subject to a civil fine payable to the party injured by the default in an amount of up to \$25,000.

(21) Influencing or attempting to influence, by any words or acts, a prospective seller, purchaser, occupant, landlord, or tenant of real estate, in connection with viewing, buying, or leasing real estate, so as to promote or tend to promote the continuance or maintenance of racially and religiously segregated housing or so as to retard, obstruct, or discourage racially integrated housing on or in any street, block, neighborhood, or community.

(22) Engaging in any act that constitutes a violation of any provision of Article 3 of the Illinois Human Rights Act, whether or not a complaint has been filed with or adjudicated by the Human Rights Commission.

(23) Inducing any party to a contract of sale or lease or brokerage agreement to break the contract of sale or lease or brokerage agreement for the purpose of substituting, in lieu thereof, a new contract for sale or lease or brokerage agreement with a third party.

(24) Negotiating a sale, exchange, or lease of real estate directly with any person if the licensee knows that the person has a written exclusive brokerage agreement with another broker, unless specifically authorized by that broker.

(25) When a licensee is also an attorney, acting as the attorney for either the buyer or the seller in the same transaction in which the licensee is acting or has acted as a broker or salesperson.

(26) Advertising or offering merchandise or services as free if any conditions or obligations necessary for receiving the merchandise or services are not disclosed in the same advertisement or offer. These conditions or obligations include without limitation the requirement that the recipient attend a promotional activity or visit a real estate site. As used in this subdivision (26), "free" includes terms such as "award", "prize", "no charge", "free of charge", "without charge", and similar words or phrases that reasonably lead a person to believe that he or she may receive or has been selected to receive something of value, without any conditions or obligations on the part of the recipient.

(27) Disregarding or violating any provision of the Land Sales Registration Act of 1989, the Illinois Real Estate Time-Share Act, or the published rules promulgated by OBRE to enforce those Acts.

(28) Violating the terms of a disciplinary order issued by OBRE.

(29) Paying compensation in violation of Article 10 of this Act.

(30) Requiring a party to a transaction who is not a client of the licensee to allow the licensee to retain a portion of the escrow moneys for payment of the licensee's commission or expenses as a condition for release of the escrow moneys to that party.

(31) Disregarding or violating any provision of this Act or the published rules promulgated by OBRE to enforce this Act or aiding or abetting any individual, partnership, registered limited liability partnership, limited liability company, or corporation in disregarding any provision of this Act or the published rules promulgated by OBRE to enforce this Act.

(32) Failing to provide the minimum services required by Section 15-75 of this Act when acting under an exclusive brokerage agreement.

(Source: P.A. 91-245, eff. 12-31-99.)

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

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

On motion of Senator Roskam, **House Bill No. 4977** was taken up, read by title a second time and ordered to a third reading.

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On motion of Senator Munoz, **House Bill No. 5011** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Munoz, **House Bill No. 5070** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Ronen, **House Bill No. 5131** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Winkel, **House Bill No. 5734** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Harmon, **House Bill No. 5875** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator DeLeo, **House Bill No. 5891** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Roskam, **House Bill No. 6760** having been printed, was taken up and read by title a second time.

Senator Roskam offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 6760 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 15-35 as follows:
(35 ILCS 200/15-35)

Sec. 15-35. Schools. All property donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt, whether owned by a resident or non-resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

- (a) property of schools which is leased to a municipality to be used for municipal purposes on a not-for-profit basis;
- (b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities for students and their spouses and children, staff housing facilities, and school-owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities, or other campus organizations;
- (c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely;
- (d) in counties with more than 200,000 inhabitants which classify property, property (including interests in land and other facilities) on or adjacent to (even if separated by a public street, alley, sidewalk, parkway or other public way) the grounds of a school, if that property is used by an academic, research or professional society, institute, association or organization which serves the advancement of learning in a field or fields of study taught by the school and which property is not used with a view to profit;
- (e) property owned by a school district. The exemption under this subsection is not affected by any transaction in which, for the purpose of obtaining financing, the school district, directly or indirectly, leases or otherwise transfers the property to another for which or whom property is not exempt and immediately after the lease or transfer enters into a leaseback or other agreement that directly or indirectly gives the school district a right to use, control, and possess the property. In the case of a conveyance of the property, the school district must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the school district.

(1) If the property has been conveyed as described in this subsection, the property is no longer exempt under this Section as of the date when:

- (A) the right of the school district to use, control, and possess the property is terminated;

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(B) the school district no longer has an option to purchase or otherwise acquire the property; and

(C) there is no provision for a reverter of the property to the school district within the limitations period for reverters.

(2) Pursuant to Sections 15-15 and 15-20 of this Code, the school district shall notify the chief county assessment officer of any transaction under this subsection. The chief county assessment officer shall determine initial and continuing compliance with the requirements of this subsection for tax exemption. Failure to notify the chief county assessment officer of a transaction under this subsection or to otherwise comply with the requirements of Sections 15-15 and 15-20 of this Code shall, in the discretion of the chief county assessment officer, constitute cause to terminate the exemption, notwithstanding any other provision of this Code.

(3) No provision of this subsection shall be construed to affect the obligation of the school district to which an exemption certificate has been issued under this Section from its obligation under Section 15-10 of this Code to file an annual certificate of status or to notify the chief county assessment officer of transfers of interest or other changes in the status of the property as required by this Code.

(4) The changes made by this amendatory Act of the 91st General Assembly are declarative of existing law and shall not be construed as a new enactment; ~~and~~

(f) in counties with more than 200,000 inhabitants which classify property, property of a corporation, which is an exempt entity under paragraph (3) of Section 501(c) of the Internal Revenue Code or its successor law, used by the corporation for the following purposes: (1) conducting continuing education for professional development of personnel in energy-related industries; (2) maintaining a library of energy technology information available to students and the public free of charge; and (3) conducting research in energy and environment, which research results could be ultimately accessible to persons involved in education; ~~and -~~

(g) property for which a school district enters into a contract to purchase for its administrative offices and, for the purpose of obtaining financing, the school district, prior to the transfer of title to the school district, transfers or otherwise assigns its interest in the contract to another entity for which the property is not otherwise exempt and, thereafter, the school district enters into a lease or other agreement that, directly or indirectly, gives the school district the right to use, control, and possess the property. The lease or other agreement shall satisfy the ownership requirement for property tax exemption purposes under this Act if the school district retains an option to purchase the property at a future date. The property shall be exempt even if the title holder, through a trust agreement or otherwise, issues certificates of participation, the proceeds of which will be used to finance the acquisition of the property. The changes made by this amendatory Act of the 93rd General Assembly are declarative of existing law and shall not be construed as a new enactment.

(Source: P.A. 91-513, eff. 8-13-99; 91-578, eff. 8-14-99; 92-16, eff. 6-28-01.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Roskam offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 6760, AS AMENDED, in Section 5, in the introductory clause, by replacing "Section 15-35" with "Sections 15-35 and 15-125"; and

in Section 5, immediately below the end of Sec. 15-35, by inserting the following:

"(35 ILCS 200/15-125)

Sec. 15-125. Parking areas.

(a) Parking areas, not leased or used for profit other than those lease or rental agreements subject to subsection (b) of this Section, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

(b) Parking areas owned by any religious institution that meets the qualifications for exemption, when leased or rented to a mass transportation entity for the limited free parking of the commuters of the mass transportation entity, are exempt.

(Source: Laws 1959, p. 1549, 1554, 2219, and 2224; P.A. 88-455.)"; and

immediately below the end of Section 5, by inserting the following:

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"Section 90. The State Mandates Act is amended by adding Section 8.28 as follows:

(30 ILCS 805/8.28 new)

Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly."

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.

On motion of Senator Trotter, **House Bill No. 7029** having been printed, was taken up and read by title a second time.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 7029 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by changing Section 8h as follows:

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund. Notwithstanding any other State law to the contrary, the Director of the Governor's Office of Management and Budget may from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of 8% of the revenues to be deposited into the fund during that year or 25% of the beginning balance in the fund. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use, ~~or~~ to any funds in the Motor Fuel Tax Fund or the Hospital Provider Fund, or to any funds to which subsection (f) of Section 20-40 of the Nursing and Advanced Practice Nursing Act applies. Notwithstanding any other provision of this Section, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed 5% of the revenues to be deposited into the fund during that year.

In determining the available balance in a fund, the Director of the Governor's Office of Management and Budget may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Governor's Office of Management and Budget.

(Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04.)

Section 10. The Nursing and Advanced Practice Nursing Act is amended by changing Section 20-40 as follows:

(225 ILCS 65/20-40)

(Section scheduled to be repealed on January 1, 2008)

Sec. 20-40. Fund. There is hereby created within the State Treasury the Nursing Dedicated and Professional Fund. The monies in the Fund may be used by and at the direction of the Department for the administration and enforcement of this Act, including but not limited to:

- (a) Distribution and publication of the Nursing and Advanced Practice Nursing Act and the rules at the time of renewal to all persons licensed by the Department under this Act.
- (b) Employment of secretarial, nursing, administrative, enforcement, and other staff for the administration of this Act.
- (c) Conducting a survey, as prescribed by rule of the Department, once every 4 years during the license renewal period.
- (d) Conducting of training seminars for licensees under this Act relating to the obligations, responsibilities, enforcement and other provisions of the Act and its rules.
- (e) Disposition of Fees:

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(i) (Blank).

(ii) All of the fees and fines collected pursuant to this Act shall be deposited in the Nursing Dedicated and Professional Fund.

(iii) For the fiscal year beginning July 1, 1988, the moneys deposited in the Nursing Dedicated and Professional Fund shall be appropriated to the Department for expenses of the Department and the Board in the administration of this Act. All earnings received from investment of moneys in the Nursing Dedicated and Professional Fund shall be deposited in the Nursing Dedicated and Professional Fund and shall be used for the same purposes as fees deposited in the Fund.

(iv) For the fiscal year beginning July 1, ~~2004~~ ~~2001~~ and for each fiscal year thereafter, ~~\$1,200,000~~ ~~\$750,000~~

of the moneys deposited in the Nursing Dedicated and Professional Fund each year shall be set aside and appropriated to the Illinois Department of Public Health for nursing scholarships awarded pursuant to the Nursing Education Scholarship Law. Representatives of the Department and the Nursing Education Scholarship Program Advisory Council shall review this requirement and the scholarship awards every 2 years.

(v) Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

(f) Moneys set aside for nursing scholarships awarded pursuant to the Nursing Education Scholarship Law as provided in item (iv) of subsection (e) of this Section may not be transferred under Section 8h of the State Finance Act.

(Source: P.A. 91-239, 1-1-00; 92-46, eff. 7-1-01.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 2 was held in the Committee on Licensed Activities.

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

On motion of Senator Welch, **House Bill No. 5157** having been printed, was taken up and read by title a second time.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 5157 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Veterans Affairs Act is amended by adding Section 2g as follows:

(20 ILCS 2805/2g new)

Sec. 2g. The Illinois Veterans' Homes Fund. The Illinois Veterans' Homes Fund is hereby created as a special fund in the State treasury. From appropriations to the Department from the Fund the Department shall purchase needed equipment and supplies to enhance the lives of the residents at and to enhance the operations of veterans' homes in Illinois.

Section 10. The State Finance Act is amended by adding Section 5.625 as follows:

(30 ILCS 105/5.625 new)

Sec. 5.625. The Illinois Veterans' Homes Fund.

Section 15. The Illinois Income Tax Act is amended by changing Sections 509 and 510 and by adding Section 507DD as follows:

(35 ILCS 5/507DD new)

Sec. 507DD. The Illinois Veterans' Homes Fund checkoff. For taxable years ending on or after December 31, 2004, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Illinois Veterans' Homes Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so by stating the amount of the contribution (not less than \$1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased

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payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(35 ILCS 5/509) (from Ch. 120, par. 5-509)

Sec. 509. Tax checkoff explanations. All individual income tax return forms shall contain appropriate explanations and spaces to enable the taxpayers to designate contributions to the following funds: the Child Abuse Prevention Fund, the Illinois Wildlife Preservation Fund (as required by the Illinois Non-Game Wildlife Protection Act), the Alzheimer's Disease Research Fund (as required by the Alzheimer's Disease Research Act), the Assistance to the Homeless Fund (as required by this Act), the Penny Severns Breast and Cervical Cancer Research Fund, the National World War II Memorial Fund, the Prostate Cancer Research Fund, the Lou Gehrig's Disease (ALS) Research Fund, the Multiple Sclerosis Assistance Fund, the Leukemia Treatment and Education Fund, the World War II Illinois Veterans Memorial Fund, the Korean War Veterans National Museum and Library Fund, ~~to~~ the Illinois Military Family Relief Fund, the Illinois Veterans' Homes Fund, and the Asthma and Lung Research Fund.

Each form shall contain a statement that the contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly.

If, on October 1 of any year, the total contributions to any one of the funds made under this Section do not equal \$100,000 or more, the explanations and spaces for designating contributions to the fund shall be removed from the individual income tax return forms for the following and all subsequent years and all subsequent contributions to the fund shall be refunded to the taxpayer.

(Source: P.A. 92-84, eff. 7-1-02; 92-198, eff. 8-1-01; 92-651, eff. 7-11-02; 92-772, eff. 8-6-02; 92-886, eff. 2-7-03; 93-36, eff. 6-24-03; 93-131, eff. 7-10-03; 93-292, eff. 7-22-03; 93-324, eff. 7-23-03; revised 9-8-03.)

(35 ILCS 5/510) (from Ch. 120, par. 5-510)

Sec. 510. Determination of amounts contributed. The Department shall determine the total amount contributed to each of the following: the Child Abuse Prevention Fund, the Illinois Wildlife Preservation Fund, the Assistance to the Homeless Fund, the Alzheimer's Disease Research Fund, the Penny Severns Breast and Cervical Cancer Research Fund, the National World War II Memorial Fund, the Prostate Cancer Research Fund, ~~to~~ the Illinois Military Family Relief Fund, the Lou Gehrig's Disease (ALS) Research Fund, the Multiple Sclerosis Assistance Fund, the Leukemia Treatment and Education Fund, the World War II Illinois Veterans Memorial Fund, the Korean War Veterans National Museum and Library Fund, the Illinois Veterans' Homes Fund, and the Asthma and Lung Research Fund; and shall notify the State Comptroller and the State Treasurer of the amounts to be transferred from the General Revenue Fund to each fund, and upon receipt of such notification the State Treasurer and Comptroller shall transfer the amounts.

(Source: P.A. 92-84, eff. 7-1-02; 92-198, eff. 8-1-01; 92-651, eff. 7-11-02; 92-772, eff. 8-6-02; 92-886, eff. 2-7-03; 93-36, eff. 6-24-03; 93-131, eff. 7-10-03; 93-292, eff. 7-22-03; 93-324, eff. 7-23-03; revised 9-8-03.)

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 Righter, **House Bill No. 6902**, 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 None.

The following voted in the affirmative:

Althoff
Bomke

Geo-Karis
Haine

Martinez
Meeks

Silverstein
Soden

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Brady	Halvorson	Munoz	Sullivan, D.
Burzynski	Harmon	Obama	Sullivan, J.
Clayborne	Hendon	Peterson	Syverson
Collins	Hunter	Petka	Trotter
Crotty	Jacobs	Radogno	Viverito
Cullerton	Jones, J.	Rauschenberger	Walsh
del Valle	Jones, W.	Righter	Watson
DeLeo	Lauzen	Ronen	Welch
Demuzio	Lightford	Roskam	Winkel
Dillard	Link	Rutherford	Wojcik
Forby	Luechtefeld	Sandoval	Mr. President
Garrett	Maloney	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.

On motion of Senator Schoenberg, **House Bill No. 6906**, 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 36; Nays 21.

The following voted in the affirmative:

Althoff	Geo-Karis	Martinez	Trotter
Bomke	Haine	Meeks	Viverito
Clayborne	Halvorson	Munoz	Walsh
Collins	Harmon	Obama	Welch
Crotty	Hendon	Ronen	Winkel
Cullerton	Hunter	Sandoval	Mr. President
del Valle	Jacobs	Schoenberg	
DeLeo	Lightford	Silverstein	
Demuzio	Link	Sullivan, D.	
Forby	Maloney	Sullivan, J.	

The following voted in the negative:

Brady	Lauzen	Righter	Syverson
Burzynski	Luechtefeld	Risinger	Watson
Dillard	Peterson	Roskam	Wojcik
Garrett	Petka	Rutherford	
Jones, J.	Radogno	Sieben	
Jones, W.	Rauschenberger	Soden	

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 BILLS RECALLED

On motion of Senator Link, **House Bill No. 6983** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

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AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 6983 on page 2, by inserting after line 10 the following:

"(5) The purchase of the manufactured articles, materials, or supplies is made in conjunction with contracts or offerings of telecommunications services or Internet or information services.

(6) The purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act."

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.

On motion of Senator Jacobs, **House Bill No. 7015** was recalled from the order of third reading to the order of second reading.

Senator Jacobs offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 7015 on page 1, lines 5 and 6, by replacing "Sections 11-605.1 and 11-605.2" with "Section 11-605.1"; and

on page 6, by replacing lines 17 through 19 with the following:

"40. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days."; and

on page 14, lines 2 and 4, by replacing "\$375" each time it appears with "\$250"; and

on page 14, by replacing lines 20 through 35 with the following:

"(g) For a second or subsequent violation of this Section within 2 years of the date of the previous violation, the Secretary of State shall suspend the driver's license of the violator for a period of 90 days."; and

by deleting pages 15 and 16; and

on page 17, by deleting lines 1 through 28.

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 Trotter, **House Bill No. 7030**, 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	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson

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Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

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 Righter, **House Bill No. 7043**, 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	Halvorson	Obama	Sullivan, D.
Bomke	Harmon	Peterson	Sullivan, J.
Brady	Hendon	Petka	Syverson
Burzynski	Hunter	Radogno	Trotter
Clayborne	Jacobs	Rauschenberger	Viverito
Collins	Jones, J.	Righter	Walsh
Crotty	Jones, W.	Risinger	Watson
Cullerton	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	
Haine	Munoz	Soden	

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 Harmon, **House Bill No. 7057** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 2 was held in the Committee on Judiciary.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 7057, AS AMENDED, by replacing the introductory clause of Section 5 with the following:

"Section 5. The Sexually Violent Persons Commitment Act is amended by changing Sections 25 and 30 as follows:

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(725 ILCS 207/25)

Sec. 25. Rights of persons subject to petition.

(a) Any person who is the subject of a petition filed under Section 15 of this Act shall be served with a copy of the petition in accordance with the Civil Practice Law.

(b) The circuit court in which a petition under Section 15 of this Act is filed shall conduct all hearings under this Act. The court shall give the person who is the subject of the petition reasonable notice of the time and place of each such hearing. The court may designate additional persons to receive these notices.

(c) Except as provided in paragraph (b)(1) of Section 65 and Section 70 of this Act, at any hearing conducted under this Act, the person who is the subject of the petition has the right to:

- (1) To be present and to be represented by counsel. If the person is indigent, the court shall appoint counsel.
- (2) To remain silent.
- (3) To present and cross-examine witnesses.
- (4) To have the hearing recorded by a court reporter.

(d) The person who is the subject of the petition, the person's attorney, the Attorney General or the State's Attorney may request that a trial under Section 35 of this Act be to a jury. A verdict of a jury under this Act is not valid unless it is unanimous.

(e) Whenever the person who is the subject of the petition is required to submit to an examination under this Act, he or she may retain experts or professional persons to perform an examination. ~~The respondent's chosen evaluator must be approved by the Sex Offender Management Board and the evaluation must be conducted in conformance with the standards developed under the Sex Offender Management Board Act.~~ If the person retains a qualified expert or professional person of his or her own choice to conduct an examination, the examiner shall have reasonable access to the person for the purpose of the examination, as well as to the person's past and present treatment records and patient health care records. If the person is indigent, the court shall, upon the person's request, appoint a qualified and available expert or professional person to perform an examination. Upon the order of the circuit court, the county shall pay, as part of the costs of the action, the costs of a court-appointed expert or professional person to perform an examination and participate in the trial on behalf of an indigent person.

(Source: P.A. 93-616, eff. 1-1-04; revised 1-10-04.)

(725 ILCS 207/30)

Sec. 30. Detention; probable cause hearing; transfer for examination.

(a) Upon the filing of a petition under Section 15 of this Act, the court shall review the petition to determine whether to issue an order for detention of the person who is the subject of the petition. The person shall be detained only if there is cause to believe that the person is eligible for commitment under subsection (f) of Section 35 of this Act. A person detained under this Section shall be held in a facility approved by the Department. If the person is serving a sentence of imprisonment, is in a Department of Corrections correctional facility or juvenile correctional facility or is committed to institutional care, and the court orders detention under this Section, the court shall order that the person be transferred to a detention facility approved by the Department. A detention order under this Section remains in effect until the person is discharged after a trial under Section 35 of this Act or until the effective date of a commitment order under Section 40 of this Act, whichever is applicable.

(b) Whenever a petition is filed under Section 15 of this Act, the court shall hold a hearing to determine whether there is probable cause to believe that the person named in the petition is a sexually violent person. If the person named in the petition is in custody, the court shall hold the probable cause hearing within 72 hours after the petition is filed, excluding Saturdays, Sundays and legal holidays. The court may grant a continuance of the probable cause hearing for no more than 7 additional days upon the motion of the respondent, for good cause. If the person named in the petition has been released, is on parole, is on mandatory supervised release, or otherwise is not in custody, the court shall hold the probable cause hearing within a reasonable time after the filing of the petition. At the probable cause hearing, the court shall admit and consider all relevant hearsay evidence.

(c) If the court determines after a hearing that there is probable cause to believe that the person named in the petition is a sexually violent person, the court shall order that the person be taken into custody if he or she is not in custody and shall order the person to be transferred within a reasonable time to an appropriate facility for an evaluation as to whether the person is a sexually violent person. If the person who is named in the petition refuses to speak to, communicate with, or otherwise fails to cooperate with the examining evaluator from the Department of Human Services or the Department of Corrections, that person may only introduce evidence and testimony from any expert or professional person who is retained or court-appointed to conduct an examination of the person that results from a review of the

records and may not introduce evidence resulting from an examination of the person. ~~Any evaluation conducted under this Section shall be by an evaluator approved by the Sex Offender Management Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act.~~ Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted pursuant to this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held pursuant to this Act, including the probable cause hearing and the trial.

If the court determines that probable cause does not exist to believe that the person is a sexually violent person, the court shall dismiss the petition.

(d) The Department shall promulgate rules that provide the qualifications for persons conducting evaluations under subsection (c) of this Section.

(e) If the person named in the petition claims or appears to be indigent, the court shall, prior to the probable cause hearing under subsection (b) of this Section, appoint counsel.

(Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

Section 10. The Unified Code of Corrections is amended by changing Sections 5-3-1, 5-3-2, 5-3-4, 5-4-3.1, 5-6-3, and 5-6-3.1 as follows:

(730 ILCS 5/5-3-1) (from Ch. 38, par. 1005-3-1)

Sec. 5-3-1. Presentence Investigation. A defendant shall not be sentenced for a felony before a written presentence report of investigation is presented to and considered by the court.

~~However, other than for felony sex offenders being considered for probation in cases other than felony sex offenses as defined in the Sex Offender Management Board Act, the court need not order a presentence report of investigation where both parties agree to the imposition of a specific sentence, provided there is a finding made for the record as to the defendant's history of delinquency or criminality, including any previous sentence to a term of probation, periodic imprisonment, conditional discharge, or imprisonment.~~

The court may order a presentence investigation of any defendant.

(Source: P.A. 93-616, eff. 1-1-04.)

(730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)

Sec. 5-3-2. Presentence Report.

(a) In felony cases, the presentence report shall set forth:

(1) the defendant's history of delinquency or criminality, physical and mental history and condition, family situation and background, economic status, education, occupation and personal habits;

(2) information about special resources within the community which might be available to assist the defendant's rehabilitation, including treatment centers, residential facilities, vocational training services, correctional manpower programs, employment opportunities, special educational programs, alcohol and drug abuse programming, psychiatric and marriage counseling, and other programs and facilities which could aid the defendant's successful reintegration into society;

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

(4) information concerning the defendant's status since arrest, including his record if released on his own recognizance, or the defendant's achievement record if released on a conditional pre-trial supervision program;

(5) when appropriate, a plan, based upon the personal, economic and social adjustment needs of the defendant, utilizing public and private community resources as an alternative to institutional sentencing;

(6) any other matters that the investigatory officer deems relevant or the court directs to be included; and

(7) information concerning defendant's eligibility for a sentence to a county impact incarceration program under Section 5-8-1.2 of this Code.

(b) The investigation shall include a physical and mental examination of the defendant when so ordered by the court. If the court determines that such an examination should be made, it shall issue an order that the defendant submit to examination at such time and place as designated by the court and that such examination be conducted by a physician, psychologist or psychiatrist designated by the court. Such an examination may be conducted in a court clinic if so ordered by the court. The cost of such examination shall be paid by the county in which the trial is held.

(b-5) In cases involving felony sex offenses in which the offender is being considered for probation or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in

which the offender is being considered for probation, the investigation shall include a sex offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act.

(c) In misdemeanor, business offense or petty offense cases, except as specified in subsection (d) of this Section, when a presentence report has been ordered by the court, such presentence report shall contain information on the defendant's history of delinquency or criminality and shall further contain only those matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court in its order for the report.

(d) In cases under Section 12-15 and Section 12-30 of the Criminal Code of 1961, as amended, the presentence report shall set forth information about alcohol, drug abuse, psychiatric, and marriage counseling or other treatment programs and facilities, information on the defendant's history of delinquency or criminality, and shall contain those additional matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court.

(e) Nothing in this Section shall cause the defendant to be held without bail or to have his bail revoked for the purpose of preparing the presentence report or making an examination.

(Source: P.A. 93-616, eff. 1-1-04.)

(730 ILCS 5/5-3-4) (from Ch. 38, par. 1005-3-4)
Sec. 5-3-4. Disclosure of Reports.

(a) Any report made pursuant to this Article or Section 5-705 of the Juvenile Court Act of 1987 shall be filed of record with the court in a sealed envelope.

(b) Presentence reports shall be open for inspection only as follows:

(1) to the sentencing court;

(2) to the state's attorney and the defendant's attorney at least 3 days prior to the imposition of sentence, unless such 3 day requirement is waived;

(3) to an appellate court in which the conviction or sentence is subject to review;

(4) to any department, agency or institution to which the defendant is committed;

(5) to any probation department of whom courtesy probation is requested;

(6) to any probation department assigned by a court of lawful jurisdiction to conduct a presentence report;

(7) to any other person only as ordered by the court; and

(8) to any mental health professional on behalf of the Illinois Department of

Corrections or the Department of Human Services or to a prosecutor who is evaluating or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of a presentence report or the respondent to a petition brought under the Sexually Violent Persons Commitment Act who is the subject of the presentence report sought. Any records and any information obtained from those records under this paragraph (8) may be used only in sexually violent persons commitment proceedings.

(c) Presentence reports shall be filed of record with the court within 60 ~~30~~ days of a verdict or finding of guilty for any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961 , or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act.

(d) A complaint, information or indictment shall not be quashed or dismissed nor shall any person in custody for an offense be discharged from custody because of noncompliance with subsection (c) of this Section.

(Source: P.A. 92-415, eff. 8-17-01.)

(730 ILCS 5/5-4-3.1) (from Ch. 38, par. 1005-4-3.1)
Sec. 5-4-3.1. Sentencing Hearing for Sex Offenses.

(a) Except for good cause shown by written motion, any person adjudged guilty of any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961, or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act, shall be sentenced within 65 ~~45~~ days of a verdict or finding of guilt for the offense.

(b) The court shall set the sentencing date at the time the verdict or finding of guilt is entered by the court.

(c) Any motion for continuance shall be in writing and supported by affidavit and in compliance with Section 114-4 of the Code of Criminal Procedure of 1963, and the victim shall be notified of the date and time of hearing and shall be provided an opportunity to address the court on the impact the continuance may have on the victim's well-being.

(d) A complaint, information or indictment shall not be quashed or dismissed, nor shall any person in custody for an offense be discharged from custody because of non-compliance with this Section. (Source: P.A. 87-900.)".

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 Burzynski, **House Bill No. 7263**, 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	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

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 DeLeo, **House Bill No. 393**, 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	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Welch
del Valle	Lauzen	Ronen	Winkel

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DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

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 DeLeo, **House Bill No. 742** was recalled from the order of third reading to the order of second reading.

Senator DeLeo offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 742, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 4, below line 14, by inserting the following:

"(h) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within premises and at an outdoor patio area attached to premises that are located in a municipality with a population in excess of 300,000 inhabitants and that are within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food,
- (2) the sale of liquor is not the principal business carried on by the licensee at the premises,
- (3) the premises are less than 1,000 square feet,
- (4) the premises are owned by the University of Illinois,
- (5) the premises are immediately adjacent to property owned by a church and are not less than 20 nor more than 40 feet from the church space used for worship services, and
- (6) the principal religious leader at the place of worship has indicated his or her support for the issuance of the license in writing."

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 DeLeo, **House Bill No. 4426**, 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	Halvorson	Obama	Sullivan, D.
Bomke	Harmon	Peterson	Sullivan, J.
Brady	Hendon	Petka	Syverson
Burzynski	Hunter	Radogno	Trotter
Clayborne	Jacobs	Rauschenberger	Viverito
Collins	Jones, J.	Righter	Walsh
Crotty	Jones, W.	Risinger	Watson
Cullerton	Lauzen	Ronen	Welch
del Valle	Lightford	Roskam	Winkel

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DeLeo	Link	Rutherford	Wojcik
Demuzio	Luechtefeld	Sandoval	Mr. President
Dillard	Maloney	Schoenberg	
Forby	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	
Haine	Munoz	Soden	

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 DeLeo, **House Bill No. 4862**, 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	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

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 DeLeo, **House Bill No. 4947**, 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 1.

The following voted in the affirmative:

Althoff	Haine	Munoz	Sullivan, D.
Bomke	Halvorson	Obama	Sullivan, J.
Brady	Harmon	Peterson	Syverson
Burzynski	Hendon	Petka	Trotter
Clayborne	Hunter	Radogno	Viverito
Collins	Jacobs	Rauschenberger	Walsh
Crotty	Jones, J.	Righter	Watson
Cullerton	Jones, W.	Risinger	Welch

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del Valle	Lauzen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Schoenberg	
Forby	Maloney	Sieben	
Garrett	Martinez	Silverstein	
Geo-Karis	Meeks	Soden	

The following voted present:

Sandoval

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 DeLeo, **House Bill No. 5415**, 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 5.

The following voted in the affirmative:

Althoff	Haine	Meeks	Sieben
Brady	Halvorson	Munoz	Silverstein
Burzynski	Harmon	Obama	Soden
Clayborne	Hendon	Peterson	Sullivan, D.
Collins	Hunter	Petka	Trotter
Crotty	Jacobs	Radogno	Viverito
Cullerton	Jones, J.	Righter	Walsh
del Valle	Jones, W.	Risinger	Watson
DeLeo	Lightford	Ronen	Welch
Dillard	Link	Roskam	Winkel
Forby	Luechtefeld	Rutherford	Wojcik
Garrett	Maloney	Sandoval	Mr. President
Geo-Karis	Martinez	Schoenberg	

The following voted in the negative:

Bomke	Lauzen	Sullivan, J.
Demuzio	Rauschenberger	

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 BILLS RECALLED

On motion of Senator Cullerton, **House Bill No. 575** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 1 was held in the Committee on Rules.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 575 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 5-15, 5-20, and 5-335 as follows:

(20 ILCS 5/5-15) (was 20 ILCS 5/3)

Sec. 5-15. Departments of State government. The Departments of State government are created as follows:

The Department on Aging.
 The Department of Agriculture.
 The Department of Central Management Services.
 The Department of Children and Family Services.
 The Department of Commerce and Economic Opportunity.
 The Department of Corrections.
 The Department of Employment Security.
 The Department of Financial Institutions.
 The Department of Human Rights.
 The Department of Human Services.
 The Department of Insurance.
The Department of Juvenile Justice.
 The Department of Labor.
 The Department of the Lottery.
 The Department of Natural Resources.
 The Department of Nuclear Safety.
 The Department of Professional Regulation.
 The Department of Public Aid.
 The Department of Public Health.
 The Department of Revenue.
 The Department of State Police.
 The Department of Transportation.
 The Department of Veterans' Affairs.

(Source: P.A. 93-25, eff. 6-20-03.)

(20 ILCS 5/5-20) (was 20 ILCS 5/4)

Sec. 5-20. Heads of departments. Each department shall have an officer as its head who shall be known as director or secretary and who shall, subject to the provisions of the Civil Administrative Code of Illinois, execute the powers and discharge the duties vested by law in his or her respective department.

The following officers are hereby created:

Director of Aging, for the Department on Aging.
 Director of Agriculture, for the Department of Agriculture.
 Director of Central Management Services, for the Department of Central Management Services.
 Director of Children and Family Services, for the Department of Children and Family Services.
 Director of Commerce and Economic Opportunity, for the Department of Commerce and Economic Opportunity.
 Director of Corrections, for the Department of Corrections.
 Director of Employment Security, for the Department of Employment Security.
 Director of Financial Institutions, for the Department of Financial Institutions.
 Director of Human Rights, for the Department of Human Rights.
 Secretary of Human Services, for the Department of Human Services.
 Director of Insurance, for the Department of Insurance.
Director of Juvenile Justice, for the Department of Juvenile Justice.
 Director of Labor, for the Department of Labor.
 Director of the Lottery, for the Department of the Lottery.
 Director of Natural Resources, for the Department of Natural Resources.
 Director of Nuclear Safety, for the Department of Nuclear Safety.
 Director of Professional Regulation, for the Department of Professional Regulation.
 Director of Public Aid, for the Department of Public Aid.
 Director of Public Health, for the Department of Public Health.
 Director of Revenue, for the Department of Revenue.
 Director of State Police, for the Department of State Police.
 Secretary of Transportation, for the Department of Transportation.

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Director of Veterans' Affairs, for the Department of Veterans' Affairs.
(Source: P.A. 93-25, eff. 6-20-03.)

(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—Juvenile 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.~~

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. 91-25, eff. 6-9-99; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

Section 10. The Counties Code is amended by changing Section 3-6039 as follows:
(55 ILCS 5/3-6039)

Sec. 3-6039. County juvenile impact incarceration program.

(a) With the approval of the county board, the Department of Probation and Court Services in any county shall have the power to operate a county juvenile impact incarceration program for eligible delinquent minors. If the court finds that a minor adjudicated a delinquent meets the eligibility requirements of this Section, the court may in its dispositional order approve the delinquent minor for placement in the county juvenile impact incarceration program conditioned upon his or her acceptance in the program by the Department of Probation and Court Services. The dispositional order also shall provide that if the Department of Probation and Court Services accepts the delinquent minor in the program and determines that the delinquent minor has successfully completed the county juvenile impact incarceration program, the delinquent minor's detention shall be reduced to time considered served upon certification to the court by the Department of Probation and Court Services that the delinquent minor has successfully completed the program. If the delinquent minor is not accepted for placement in the county juvenile impact incarceration program or the delinquent minor does not successfully complete the program, his or her term of commitment shall be as set forth by the court in its dispositional order. If the delinquent minor does not successfully complete the program, time spent in the program does not count as time served against the time limits as set forth in subsection (f) of this Section.

(b) In order to be eligible to participate in the county juvenile impact incarceration program, the delinquent minor must meet all of the following requirements:

(1) The delinquent minor is at least 13 years of age.

(2) The act for which the minor is adjudicated delinquent does not constitute a Class X felony, criminal sexual assault, first degree murder, aggravated kidnapping, second degree murder, armed violence, arson, forcible detention, aggravated criminal sexual abuse or a subsequent conviction for criminal sexual abuse.

(3) The delinquent minor has not previously participated in a county juvenile impact incarceration program and has not previously served a prior commitment for an act constituting a felony in a Department of ~~Juvenile Justice~~ ~~Corrections~~ juvenile correctional facility. This provision shall not exclude a delinquent minor who is committed to the Illinois Department of ~~Juvenile Justice~~ ~~Corrections~~ and is participating in the county juvenile impact incarceration program under an intergovernmental cooperation agreement with the Illinois Department of ~~Juvenile Justice~~ ~~Corrections~~, ~~Juvenile Division~~.

(4) The delinquent minor is physically able to participate in strenuous physical activities or labor.

(5) The delinquent minor does not have a mental disorder or disability that would prevent participation in the county juvenile impact incarceration program.

(6) The delinquent minor is recommended and approved for placement in the county juvenile impact incarceration program in the court's dispositional order.

The court and the Department of Probation and Court Services may also consider, among other matters, whether the delinquent minor has a history of escaping or absconding, whether participation in the county juvenile impact incarceration program may pose a risk to the safety or security of any person, and whether space is available.

(c) The county juvenile impact incarceration program shall include, among other matters, mandatory physical training and labor, military formation and drills, regimented activities, uniformity of dress and appearance, education and counseling, including drug counseling if appropriate, and must impart to the delinquent minor principles of honor, integrity, self-sufficiency, self-discipline, self-respect, and respect for others.

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(d) Privileges of delinquent minors participating in the county juvenile impact incarceration program, including visitation, commissary, receipt and retention of property and publications, and access to television, radio, and a library, may be suspended or restricted, at the discretion of the Department of Probation and Court Services.

(e) Delinquent minors participating in the county juvenile impact incarceration program shall adhere to all rules promulgated by the Department of Probation and Court Services and all requirements of the program. Delinquent minors shall be informed of rules of behavior and conduct. Disciplinary procedures required by any other law or county ordinance are not applicable.

(f) Participation in the county juvenile impact incarceration program by a minor adjudicated delinquent for an act constituting a misdemeanor shall be for a period of at least 7 days but less than 120 days as determined by the Department of Probation and Court Services. Participation in the county juvenile impact incarceration program by a minor adjudicated delinquent for an act constituting a felony shall be for a period of 120 to 180 days as determined by the Department of Probation and Court Services.

(g) A delinquent minor may be removed from the program for a violation of the terms or conditions of the program or if he or she is for any reason unable to participate. The Department of Probation and Court Services shall promulgate rules governing conduct that could result in removal from the program or in a determination that the delinquent minor has not successfully completed the program. Delinquent minors shall have access to these rules. The rules shall provide that the delinquent minor shall receive notice and have the opportunity to appear before and address the Department of Probation and Court Services or a person appointed by the Department of Probation and Court Services for this purpose. A delinquent minor may be transferred to any juvenile facilities prior to the hearing.

(h) If the Department of Probation and Court Services accepts the delinquent minor in the program and determines that the delinquent minor has successfully completed the county juvenile impact incarceration program, the court shall discharge the minor from custody upon certification to the court by the Department of Probation and Court Services that the delinquent minor has successfully completed the program. In the event the delinquent minor is not accepted for placement in the county juvenile impact incarceration program or the delinquent minor does not successfully complete the program, his or her commitment to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, or juvenile detention shall be as set forth by the court in its dispositional order.

(i) The Department of Probation and Court Services, with the approval of the county board, shall have the power to enter into intergovernmental cooperation agreements with the Illinois Department of ~~Juvenile Justice Corrections, Juvenile Division~~, under which delinquent minors committed to the Illinois Department of ~~Juvenile Justice Corrections, Juvenile Division~~, may participate in the county juvenile impact incarceration program. A delinquent minor who successfully completes the county juvenile impact incarceration program shall be discharged from custody upon certification to the court by the Illinois Department of ~~Juvenile Justice Corrections, Juvenile Division~~, that the delinquent minor has successfully completed the program.

(Source: P.A. 89-302, eff. 8-11-95; 89-626, eff. 8-9-96; 89-689, eff. 12-31-96; 90-256, eff. 1-1-98.)

Section 15. The School Code is amended by changing Sections 2-3.13a, 13-40, 13-41, 13-43.8, 13-43.20, 13-44, 13-44.3, and 13-45 and the heading preceding Section 13-40 as follows:

(105 ILCS 5/2-3.13a) (from Ch. 122, par. 2-3.13a)

Sec. 2-3.13a. Scholastic records; transferring students. The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act. In addition, if a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act (20 U.S.C. 8921 et seq.), for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Corrections and Department of Juvenile

Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring, provided that the school board may approve the placement of the student in an alternative school program established under Article 13A of this Code. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion before being admitted into the school district. This policy may allow placement of the student in an alternative school program established under Article 13A of this Code, if available, for the remainder of the suspension or expulsion. Each public school and each private or nonpublic elementary or secondary school in this State shall within 10 days after the student has paid all of his or her outstanding fines and fees and at its own expense forward an official transcript of the scholastic records of each student transferring from that school in strict accordance with the provisions of this Section and the rules established by the State Board of Education as herein provided.

The State Board of Education shall develop a one-page standard form that Illinois school districts are required to provide to any student who is moving out of the school district and that contains the information about whether or not the student is "in good standing" and whether or not his or her medical records are up-to-date and complete. As used in this Section, "in good standing" means that the student is not being disciplined by a suspension or expulsion, but is entitled to attend classes. No school district is required to admit a new student who is transferring from another Illinois school district unless he or she can produce the standard form from the student's previous school district enrollment. No school district is required to admit a new student who is transferring from an out-of-state public school unless the parent or guardian of the student certifies in writing that the student is not currently serving a suspension or expulsion imposed by the school from which the student is transferring.

(Source: P.A. 91-365, eff. 7-30-99; 92-64, eff. 7-12-01.)

(105 ILCS 5/prec. Sec. 13-40 heading)

DEPARTMENT OF CORRECTIONS
AND DEPARTMENT OF JUVENILE JUSTICE
SCHOOL DISTRICTS

(105 ILCS 5/13-40) (from Ch. 122, par. 13-40)

Sec. 13-40. To increase the effectiveness of the Department of Corrections and the Department of Juvenile Justice and thereby to better serve the interests of the people of Illinois the following bill is presented.

Its purpose is to enhance the quality and scope of education for inmates and wards within the Department of Corrections and the Department of Juvenile Justice so that they will be better motivated and better equipped to restore themselves to constructive and law abiding lives in the community. The specific measure sought is the creation of a school district within the Departments Department so that their ~~his~~ educational programs can meet the needs of persons committed and so the resources of public education at the state and federal levels are best used, all of the same being contemplated within the provisions of the Illinois State Constitution of 1970 which provides that "A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities." Therefore, on July 1, 1972, a Department of Corrections and Department of Juvenile Justice school district is established for the education of inmates and wards within the Department of Corrections and the Department of Juvenile Justice and the said district may establish primary, secondary, vocational, adult, special and advanced educational schools as provided in this Act. The Board of Education for this district shall with the aid and advice of professional educational personnel of the Department of Corrections and the Department of Juvenile Justice and the State Board of Education determine the needs and type of schools and the curriculum for each school within the school district and may proceed to establish the same through existing means within present and future appropriations, federal and state school funds, vocational rehabilitation grants and funds and all other funds, gifts and grants, private or public, including federal funds, but not exclusive to the said sources but inclusive of all funds which might be available for school purposes. The school district shall first organize a school system for the Adult Division of the Department of Corrections to go into effect July 1, 1972. A school system for the Department of Juvenile Justice Juvenile Division shall subsequently be organized and put into effect under this school district at such time as the school board shall determine necessary.

(Source: P.A. 81-1508.)

(105 ILCS 5/13-41) (from Ch. 122, par. 13-41)

Sec. 13-41. The Board of Education for this school district shall be composed of the Director of the Department of Corrections, the ~~Assistant~~ Director of the Department of Juvenile Justice Division and the Assistant Director of the Adult Division of the said Department of Corrections. Of the remaining

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members, 2 shall be appointed by the Director of the Department of Corrections and 4 shall be appointed by the State Board of Education, at least one of whom shall have knowledge of, or experience in, vocational education and one of whom shall have knowledge of, or experience in, higher and continuing education. Subsequent to the initial appointments all members of the Board shall hold office for a period of 3 years. One of the initial appointees of the Director of the Department of Corrections and the State Board of Education shall be for a one-year term. One of the initial appointees of the State Board of Education shall be for a two-year term. The remaining initial appointees shall serve for a three-year term. Vacancies shall be filled in like manner for the unexpired balance of the term. The members appointed shall be selected so far as is practicable on the basis of their knowledge of, or experience in, problems of education in correctional, vocational and general educational institutions. Members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(Source: P.A. 81-1508.)

(105 ILCS 5/13-43.8) (from Ch. 122, par. 13-43.8)

Sec. 13-43.8. To enter agreements with school districts, private junior colleges and public community colleges, and public and private colleges and universities for the purpose of providing advanced vocational training of students who desire preparation for a trade. Such program would utilize private junior college and public community college facilities with transportation to and from those facilities provided by the participating school district, or by the participating school district in conjunction with other school districts. The duration of the advanced vocational training program shall be such period as the school district may approve, but it may not exceed 2 years. Participation in the program is accorded the same credit toward a high school diploma as time spent in other courses. If a student of this school district, because of his educational needs, attends a class or school in another school district or educational facility, the Department of Corrections and Department of Juvenile Justice school district where he resides shall be granted the proper permit, provide any necessary transportation, and pay to the school district or educational facility maintaining the educational facility the proportional per capita cost of educating such student.

(Source: P.A. 82-622.)

(105 ILCS 5/13-43.20) (from Ch. 122, par. 13-43.20)

Sec. 13-43.20. To develop a method or methods for allocating state funds to the Board for expenditure within the various divisions and/or for programs conducted by the Board, and to annually determine the average per capita cost of students in the Department of Juvenile Justice Juvenile Division and the average per capita cost of students in the Adult Division of the Department of Corrections for education classes and/or programs required to accomplish the educational goals and objectives and programs specified in Sections 13-43.18 and 13-43.19 and recommend to the State Board of Education by July 15 of each year the per capita amount necessary to operate the correction school district's educational program for the following fiscal year.

(Source: P.A. 81-1508.)

(105 ILCS 5/13-44) (from Ch. 122, par. 13-44)

Sec. 13-44.

Other provisions, duties and conditions of the Department of Corrections and Department of Juvenile Justice School District are set out in Sections 13-44.1 through 13-44.5.

(Source: P.A. 77-1779.)

(105 ILCS 5/13-44.3) (from Ch. 122, par. 13-44.3)

Sec. 13-44.3. In order to fully carry out the purpose of this Act, the School District through its Board or designated supervisory personnel, with the approval of the Director of the Department of Corrections or the Director of Juvenile Justice, may authorize field trips outside of the particular institution or facility where a school is established and may remove students therefrom or may with the approval of the Director of the Department of Corrections or the Director of Juvenile Justice transfer inmates and wards to other schools and other facilities where particular subject matter or facilities are more suited to or are needed to complete the inmates' or wards' education. The Assistant Director of the Adult Division of the Department of Corrections or the Assistant Director of the Department of Juvenile Justice Division may authorize an educational furlough for an inmate or ward to attend institutions of higher education, other schools, vocational or technical schools or enroll and attend classes in subjects not available within the School District, to be financed by the inmate or ward or any grant or scholarship which may be available, including school aid funds of any kind when approved by the Board and the Director of the respective Department.

The Department of Corrections or the Department of Juvenile Justice may extend the limits of the place of confinement of an inmate or ward under the above conditions and for the above purposes, to

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leave for the aforesaid reasons, the confines of such place, accompanied or unaccompanied, in the discretion of the Director of such Department by a custodial agent or educational personnel.

The willful failure of an inmate or ward to remain within the extended limits of his confinement or to return within the time prescribed to the place of confinement designated by the Department of Corrections or Department of Juvenile Justice in granting such extension or when ordered to return by the custodial personnel or the educational personnel or other departmental order shall be deemed an escape from the custody of such Department and punishable as provided in the Unified Code of Corrections as to the Adult Division inmates, and the applicable provision of the Juvenile Court Act of 1987 shall apply to wards of the Department of Juvenile Justice ~~Juvenile Division~~ who might abscond. (Source: P.A. 85-1209; 86-1475.)

(105 ILCS 5/13-45) (from Ch. 122, par. 13-45)

Sec. 13-45.

Other provisions of this Code shall not apply to the Department of Corrections and Department of Juvenile Justice School District being all of the following Articles and Sections: Articles 7, 8, 9, those sections of Article 10 in conflict with any provisions of Sections 13-40 through 13-45, and Articles 11, 12, 15, 17, 18, 19, 19A, 20, 22, 24, 26, 31, 32, 33, 34, 35. Also Article 28 shall not apply except that this School District may use any funds available from State, Federal and other funds for the purchase of textbooks, apparatus and equipment.

(Source: P.A. 77-1779.)

Section 20. The Juvenile Court Act of 1987 is amended by changing Sections 1-4.1, 5-130, 5-705, 5-710, 5-750, 5-815, 5-820, 5-901, 5-905, 5-915, and 6-6 as follows:

(705 ILCS 405/1-4.1) (from Ch. 37, par. 801-4.1)

Sec. 1-4.1. Except for minors accused of violation of an order of the court and determined by the Court to be a danger to themselves or the community, any minor accused of any act under federal or State law, or a municipal ordinance that would not be illegal if committed by an adult, cannot be placed in a jail, municipal lockup, detention center or secure correctional facility. Confinement in a county jail of a minor accused of a violation of an order of the court, or of a minor for whom there is reasonable cause to believe that the minor is a person described in subsection (3) of Section 5-105, shall be in accordance with the restrictions set forth in Sections 5-410 and 5-501 of this Act.

(Source: P.A. 89-656, eff. 1-1-97; 90-590, eff. 1-1-99.)

(705 ILCS 405/5-130)

Sec. 5-130. Excluded jurisdiction.

(1) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with first degree murder, aggravated criminal sexual assault, aggravated battery with a firearm committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on, boarding, or departing from any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity regardless of the time of day or time of year that the offense was committed, armed robbery when the armed robbery was committed with a firearm, or aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

For purposes of this paragraph (a) of subsection (1):

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the Criminal Code of 1961 on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal

Code of 1961.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the ~~Department of Juvenile Justice Juvenile Court or the Department of Corrections, Juvenile Division~~, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(2) (a) The definition of a delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with an offense under Section 401 of the Illinois Controlled Substances Act, while in a school, regardless of the time of day or the time of year, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or on a public way within 1,000 feet of the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development. School is defined, for the purposes of this Section, as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (2) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (2) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (2), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (2), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a)

whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(3) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code of 1961 while in school, regardless of the time of day or the time of year, or on the real property comprising any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (3) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (3) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (3), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (3), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(4) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961.

(b) (i) If before trial or plea an information or indictment is filed that does not charge first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, and additional charges that are not specified in paragraph (a) of this subsection, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If the minor was not yet 15 years of age at the time of the offense, and if after trial or plea the court finds that the minor committed an offense other than first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, for the treatment and rehabilitation of the minor; (e) whether the best interest of the minor and the security of the public require sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(5) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6 or Section 32-10 of the Criminal Code of 1961 when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection (1) or (2) of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (5), the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (5) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (5), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (5), the conviction shall not invalidate the verdict or the prosecution of the minor under the criminal laws of this State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities

particularly available to the Juvenile Court or the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1), (2), or (3) or Section 5-805, or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 17 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 17th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

(10) If a minor is subject to the provisions of subsection (2) of this Section, other than a minor charged with a Class X felony violation of the Illinois Controlled Substances Act, any party including the minor or the court sua sponte may, before trial, move for a hearing for the purpose of trying and sentencing the minor as a delinquent minor. To request a hearing, the party must file a motion prior to trial. Reasonable notice of the motion shall be given to all parties. On its own motion or upon the filing of a motion by one of the parties including the minor, the court shall conduct a hearing to determine whether the minor should be tried and sentenced as a delinquent minor under this Article. In making its determination, the court shall consider among other matters:

- (a) The age of the minor;
- (b) Any previous delinquent or criminal history of the minor;
- (c) Any previous abuse or neglect history of the minor;
- (d) Any mental health or educational history of the minor, or both; and
- (e) Whether there is probable cause to support the charge, whether the minor is charged through accountability, and whether there is evidence the minor possessed a deadly weapon or caused serious bodily harm during the offense.

Any material that is relevant and reliable shall be admissible at the hearing. In all cases, the judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on a preponderance of the evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the factors listed in this subsection (10).

(Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99; 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

(705 ILCS 405/5-705)

Sec. 5-705. Sentencing hearing; evidence; continuance.

(1) At the sentencing hearing, the court shall determine whether it is in the best interests of the minor or the public that he or she be made a ward of the court, and, if he or she is to be made a ward of the court, the court shall determine the proper disposition best serving the interests of the minor and the public. All evidence helpful in determining these questions, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the trial. A record of a prior continuance under supervision under Section 5-615, whether successfully completed or not, is admissible at the sentencing hearing. No order of commitment to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, shall be entered against a minor before a written report of social investigation, which has been completed within the previous 60 days, is presented to and considered by the court.

(2) Once a party has been served in compliance with Section 5-525, no further service or notice must be given to that party prior to proceeding to a sentencing hearing. Before imposing sentence the court shall advise the State's Attorney and the parties who are present or their counsel of the factual contents and the conclusions of the reports prepared for the use of the court and considered by it, and afford fair

opportunity, if requested, to controvert them. Factual contents, conclusions, documents and sources disclosed by the court under this paragraph shall not be further disclosed without the express approval of the court.

(3) On its own motion or that of the State's Attorney, a parent, guardian, legal custodian, or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the minor or his or her release from detention subject to supervision by the court during the period of the continuance. In the event the court shall order detention hereunder, the period of the continuance shall not exceed 30 court days. At the end of such time, the court shall release the minor from detention unless notice is served at least 3 days prior to the hearing on the continued date that the State will be seeking an extension of the period of detention, which notice shall state the reason for the request for the extension. The extension of detention may be for a maximum period of an additional 15 court days or a lesser number of days at the discretion of the court. However, at the expiration of the period of extension, the court shall release the minor from detention if a further continuance is granted. In scheduling investigations and hearings, the court shall give priority to proceedings in which a minor is in detention or has otherwise been removed from his or her home before a sentencing order has been made.

(4) When commitment to the Department of Juvenile Justice ~~Corrections, Juvenile Division~~, is ordered, the court shall state the basis for selecting the particular disposition, and the court shall prepare such a statement for inclusion in the record.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice ~~Corrections, Juvenile Division~~ under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 13 years of age;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 13 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of ~~Mature~~ Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing

allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, under Section

5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act or the Cannabis Control Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code.

(7) In no event shall a guilty minor be committed to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~ for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the

victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need 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 in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of ~~Juvenile Justice Corrections, Juvenile Division~~. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised 10-9-03.)

(705 ILCS 405/5-750)

Sec. 5-750. Commitment to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~.

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, if it finds that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740 or; (b) it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent.

(2) When a minor of the age of at least 13 years is adjudged delinquent for the offense of first degree murder, the court shall declare the minor a ward of the court and order the minor committed to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, until the minor's 21st birthday, without the possibility of parole, furlough, or non-emergency authorized absence for a period of 5 years from the date the minor was committed to the Department of ~~Juvenile Justice Corrections~~, except that the time that a minor spent in custody for the instant offense before being committed to the Department of ~~Juvenile Justice~~ shall be considered as time credited towards that 5 year period. Nothing in this subsection (2) shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to proceeding under this Act.

(3) Except as provided in subsection (2), the commitment of a delinquent to the Department of ~~Juvenile Justice Corrections~~ shall be for an indeterminate term which shall automatically terminate upon the delinquent attaining the age of 21 years unless the delinquent is sooner discharged from parole or custodianship is otherwise terminated in accordance with this Act or as otherwise provided for by law.

(4) When the court commits a minor to the Department of ~~Juvenile Justice Corrections~~, it shall order him or her conveyed forthwith to the appropriate reception station or other place designated by the Department of ~~Juvenile Justice Corrections~~, and shall appoint the ~~Assistant~~ Director of ~~Juvenile Justice Corrections, Juvenile Division~~, legal custodian of the minor. The clerk of the court shall issue to the ~~Assistant~~ Director of ~~Juvenile Justice Corrections, Juvenile Division~~, a certified copy of the order, which constitutes proof of the Director's authority. No other process need issue to warrant the keeping of the minor.

(5) If a minor is committed to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, the clerk of the court shall forward to the Department:

[May 12, 2004]

- (a) the disposition ordered;
- (b) all reports;
- (c) the court's statement of the basis for ordering the disposition; and
- (d) all additional matters which the court directs the clerk to transmit.

(6) Whenever the Department of ~~Juvenile Justice Corrections~~ lawfully discharges from its custody and control a minor committed to it, the ~~Assistant~~ Director of ~~Juvenile Justice Corrections, Juvenile Division,~~ shall petition the court for an order terminating his or her custodianship. The custodianship shall terminate automatically 30 days after receipt of the petition unless the court orders otherwise.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-815)

Sec. 5-815. Habitual Juvenile Offender.

(a) Definition. Any minor having been twice adjudicated a delinquent minor for offenses which, had he been prosecuted as an adult, would have been felonies under the laws of this State, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender where:

1. the third adjudication is for an offense occurring after adjudication on the second;
and
2. the second adjudication was for an offense occurring after adjudication on the
first; and
3. the third offense occurred after January 1, 1980; and

4. the third offense was based upon the commission of or attempted commission of the following offenses: first degree murder, second degree murder or involuntary manslaughter; criminal sexual assault or aggravated criminal sexual assault; aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm to the victim; burglary of a home or other residence intended for use as a temporary or permanent dwelling place for human beings; home invasion; robbery or armed robbery; or aggravated arson.

Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to prosecution as an habitual juvenile offender.

A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of any delinquency petition, adjudication upon which would mandate the minor's disposition as an Habitual Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as an Habitual Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which such Habitual Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on such petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without jury.

Except as otherwise provided herein, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Habitual Juvenile Offender proceedings.

(e) Proof of prior adjudications. No evidence or other disclosure of prior adjudications shall be presented to the court or jury during any adjudicatory hearing provided for under this Section unless otherwise permitted by the issues properly raised in such hearing. In the event the minor who is the subject of these proceedings elects to testify on his own behalf, it shall be competent to introduce evidence, for purposes of impeachment, that he has previously been adjudicated a delinquent minor upon facts which, had he been tried as an adult, would have resulted in his conviction of a felony or of any offense that involved dishonesty or false statement. Introduction of such evidence shall be according to the rules and procedures applicable to the impeachment of an adult defendant by prior conviction.

After an admission of the facts in the petition or adjudication of delinquency, the State's Attorney may file with the court a verified written statement signed by the State's Attorney concerning any prior adjudication of an offense set forth in subsection (a) of this Section which offense would have been a felony or of any offense that involved dishonesty or false statement had the minor been tried as an adult.

The court shall then cause the minor to be brought before it; shall inform him of the allegations of the statement so filed, and of his right to a hearing before the court on the issue of such prior adjudication and of his right to counsel at such hearing; and unless the minor admits such adjudication, the court shall hear and determine such issue, and shall make a written finding thereon.

A duly authenticated copy of the record of any such alleged prior adjudication shall be prima facie evidence of such prior adjudication or of any offense that involved dishonesty or false statement.

Any claim that a previous adjudication offered by the State's Attorney is not a former adjudication of an offense which, had the minor been prosecuted as an adult, would have resulted in his conviction of a felony or of any offense that involved dishonesty or false statement, is waived unless duly raised at the hearing on such adjudication, or unless the State's Attorney's proof shows that such prior adjudication was not based upon proof of what would have been a felony.

(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor an Habitual Juvenile Offender and commit him to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, until his 21st birthday, without possibility of parole, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his confinement. Such good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

For purposes of determining good conduct credit, commitment as an Habitual Juvenile Offender shall be considered a determinate commitment, and the difference between the date of the commitment and the minor's 21st birthday shall be considered the determinate period of his confinement.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-820)

Sec. 5-820. Violent Juvenile Offender.

(a) Definition. A minor having been previously adjudicated a delinquent minor for an offense which, had he or she been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violence against an individual or a Class 2 or greater felony for which an element of the offense is possession or use of a firearm, and who is thereafter adjudicated a delinquent minor for a second time for any of those offenses shall be adjudicated a Violent Juvenile Offender if:

(1) The second adjudication is for an offense occurring after adjudication on the first; and

(2) The second offense occurred on or after January 1, 1995.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of a delinquency petition, adjudication upon which would mandate the minor's disposition as a Violent Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as a Violent Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which the Violent Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on the petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without a jury.

Except as otherwise provided in this Section, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Violent Juvenile Offender proceedings.

(e) Proof of prior adjudications. No evidence or other disclosure of prior adjudications shall be presented to the court or jury during an adjudicatory hearing provided for under this Section unless otherwise permitted by the issues properly raised in that hearing. In the event the minor who is the subject of these proceedings elects to testify on his or her own behalf, it shall be competent to introduce evidence, for purposes of impeachment, that he or she has previously been adjudicated a delinquent minor upon facts which, had the minor been tried as an adult, would have resulted in the minor's conviction of a felony or of any offense that involved dishonesty or false statement. Introduction of such evidence shall be according to the rules and procedures applicable to the impeachment of an adult defendant by prior conviction.

After an admission of the facts in the petition or adjudication of delinquency, the State's Attorney may file with the court a verified written statement signed by the State's Attorney concerning any prior adjudication of an offense set forth in subsection (a) of this Section that would have been a felony or of any offense that involved dishonesty or false statement had the minor been tried as an adult.

The court shall then cause the minor to be brought before it; shall inform the minor of the allegations of the statement so filed, of his or her right to a hearing before the court on the issue of the prior adjudication and of his or her right to counsel at the hearing; and unless the minor admits the adjudication, the court shall hear and determine the issue, and shall make a written finding of the issue.

A duly authenticated copy of the record of any alleged prior adjudication shall be prima facie evidence of the prior adjudication or of any offense that involved dishonesty or false statement.

Any claim that a previous adjudication offered by the State's Attorney is not a former adjudication of an offense which, had the minor been prosecuted as an adult, would have resulted in his or her conviction of a Class 2 or greater felony involving the use or threat of force or violence, or a firearm, a felony or of any offense that involved dishonesty or false statement is waived unless duly raised at the hearing on the adjudication, or unless the State's Attorney's proof shows that the prior adjudication was not based upon proof of what would have been a felony.

(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor a Violent Juvenile Offender and commit the minor to the Department of ~~Juvenile Justice Corrections, Juvenile Division~~, until his or her 21st birthday, without possibility of parole, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his or her confinement. The good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

For purposes of determining good conduct credit, commitment as a Violent Juvenile Offender shall be considered a determinate commitment, and the difference between the date of the commitment and the minor's 21st birthday shall be considered the determinate period of his or her confinement.

(g) Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as a habitual juvenile offender or as an adult as an alternative to prosecution as a Violent Juvenile Offender.

(h) A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-901)

Sec. 5-901. Court file.

(1) The Court file with respect to proceedings under this Article shall consist of the petitions, pleadings, victim impact statements, process, service of process, orders, writs and docket entries reflecting hearings held and judgments and decrees entered by the court. The court file shall be kept separate from other records of the court.

(a) The file, including information identifying the victim or alleged victim of any sex offense, shall be disclosed only to the following parties when necessary for discharge of their official duties:

(i) A judge of the circuit court and members of the staff of the court designated by the judge;

(ii) Parties to the proceedings and their attorneys;

(iii) Victims and their attorneys, except in cases of multiple victims of sex offenses in which case the information identifying the nonrequesting victims shall be redacted;

(iv) Probation officers, law enforcement officers or prosecutors or their staff;

(v) Adult and juvenile Prisoner Review Boards.

(b) The Court file redacted to remove any information identifying the victim or alleged victim of any sex offense shall be disclosed only to the following parties when necessary for discharge of their official duties:

(i) Authorized military personnel;

(ii) Persons engaged in bona fide research, with the permission of the judge of the juvenile court and the chief executive of the agency that prepared the particular recording: provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record;

(iii) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 or Section 6-205.1 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers;

(iv) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court;

(v) Any individual, or any public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile or any placement provider or potential placement provider as determined by the court.

(3) A minor who is the victim or alleged victim in a juvenile proceeding shall be provided the same

confidentiality regarding disclosure of identity as the minor who is the subject of record. Information identifying victims and alleged victims of sex offenses, shall not be disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing his or her identity.

(4) Relevant information, reports and records shall be made available to the Department of Juvenile Justice Corrections when a juvenile offender has been placed in the custody of the Department of Juvenile Justice Corrections, Juvenile Division.

(5) Except as otherwise provided in this subsection (5), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The State's Attorney, the minor, his or her parents, guardian and counsel shall at all times have the right to examine court files and records.

(a) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(i) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(ii) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (A) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an act involving the use of a firearm in the commission of a felony, (C) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (D) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, or (E) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult.

(b) The court shall allow the general public to have access to the name, address, and offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-805, under either of the following circumstances:

(i) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(ii) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (A) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an offense involving the use of a firearm in the commission of a felony, (C) a Class X felony offense under the Cannabis Control Act or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (D) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, or (E) an offense under Section 401 of the Illinois Controlled Substances Act.

(6) Nothing in this Section shall be construed to limit the use of a adjudication of delinquency as evidence in any juvenile or criminal proceeding, where it would otherwise be admissible under the rules of evidence, including but not limited to, use as impeachment evidence against any witness, including the minor if he or she testifies.

(7) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority examining the character and fitness of an applicant for a position as a law enforcement officer to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records or evidence which were made in proceedings under this Act.

(8) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the sentencing order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him or her.

(9) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(11) The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 17th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.

(12) Information or records may be disclosed to the general public when the court is conducting hearings under Section 5-805 or 5-810.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-905)

Sec. 5-905. Law enforcement records.

(1) Law Enforcement Records. Inspection and copying of law enforcement records maintained by law enforcement agencies that relate to a minor who has been arrested or taken into custody before his or her 17th birthday shall be restricted to the following and when necessary for the discharge of their official duties:

(a) A judge of the circuit court and members of the staff of the court designated by the judge;

(b) Law enforcement officers, probation officers or prosecutors or their staff;

(c) The minor, the minor's parents or legal guardian and their attorneys, but only when the juvenile has been charged with an offense;

(d) Adult and Juvenile Prisoner Review Boards;

(e) Authorized military personnel;

(f) Persons engaged in bona fide research, with the permission of the judge of juvenile court and the chief executive of the agency that prepared the particular recording: provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record;

(g) Individuals responsible for supervising or providing temporary or permanent care and custody of minors pursuant to orders of the juvenile court or directives from officials of the Department of Children and Family Services or the Department of Human Services who certify in writing that the information will not be disclosed to any other party except as provided under law or order of court;

(h) The appropriate school official. Inspection and copying shall be limited to law enforcement records transmitted to the appropriate school official by a local law enforcement agency under a reciprocal reporting system established and maintained between the school district and the local law enforcement agency under Section 10-20.14 of the School Code concerning a minor enrolled in a school within the school district who has been arrested for any offense classified as a felony or a Class A or B misdemeanor.

(2) Information identifying victims and alleged victims of sex offenses, shall not be disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing his or her identity.

(3) Relevant information, reports and records shall be made available to the Department of Juvenile Justice Corrections when a juvenile offender has been placed in the custody of the Department of Juvenile Justice Corrections, Juvenile Division.

(4) Nothing in this Section shall prohibit the inspection or disclosure to victims and witnesses of photographs contained in the records of law enforcement agencies when the inspection or disclosure is conducted in the presence of a law enforcement officer for purposes of identification or apprehension of any person in the course of any criminal investigation or prosecution.

(5) The records of law enforcement officers concerning all minors under 17 years of age must be maintained separate from the records of adults and may not be open to public inspection or their contents disclosed to the public except by order of the court or when the institution of criminal proceedings has been permitted under Section 5-130 or 5-805 or required under Section 5-130 or 5-805 or such a person has been convicted of a crime and is the subject of pre-sentence investigation or when provided by law.

(6) Except as otherwise provided in this subsection (6), law enforcement officers may not disclose the identity of any minor in releasing information to the general public as to the arrest, investigation or disposition of any case involving a minor. Any victim or parent or legal guardian of a victim may petition the court to disclose the name and address of the minor and the minor's parents or legal guardian, or both. Upon a finding by clear and convincing evidence that the disclosure is either necessary for the victim to pursue a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor, then the court may order

the disclosure of the information to the victim or to the parent or legal guardian of the victim only for the purpose of the victim pursuing a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor.

(7) Nothing contained in this Section shall prohibit law enforcement agencies when acting in their official capacity from communicating with each other by letter, memorandum, teletype or intelligence alert bulletin or other means the identity or other relevant information pertaining to a person under 17 years of age. The information provided under this subsection (7) shall remain confidential and shall not be publicly disclosed, except as otherwise allowed by law.

(8) No person shall disclose information under this Section except when acting in his or her official capacity and as provided by law or order of court.

(Source: P.A. 90-590, eff. 1-1-99; 91-479, eff. 1-1-00.)

(705 ILCS 405/5-915)

Sec. 5-915. Expungement of law enforcement and juvenile court records.

(1) Whenever any person has attained the age of 17 or whenever all juvenile court proceedings relating to that person have been terminated, whichever is later, the person may petition the court to expunge law enforcement records relating to incidents occurring before his or her 17th birthday or his or her juvenile court records, or both, but only in the following circumstances:

- (a) the minor was arrested and no petition for delinquency was filed with the clerk of the circuit court; or
- (b) the minor was charged with an offense and was found not delinquent of that offense;
or
- (c) the minor was placed under supervision pursuant to Section 5-615, and the order of supervision has since been successfully terminated; or
- (d) the minor was adjudicated for an offense which would be a Class B misdemeanor if committed by an adult.

(2) Any person may petition the court to expunge all law enforcement records relating to any incidents occurring before his or her 17th birthday which did not result in proceedings in criminal court and all juvenile court records with respect to any adjudications except those based upon first degree murder and sex offenses which would be felonies if committed by an adult, if the person for whom expungement is sought has had no convictions for any crime since his or her 17th birthday and:

- (a) has attained the age of 21 years; or
- (b) 5 years have elapsed since all juvenile court proceedings relating to him or her have been terminated or his or her commitment to the Department of Juvenile Justice ~~Corrections, Juvenile Division~~ pursuant to this Act has been terminated;

whichever is later of (a) or (b).

(3) The chief judge of the circuit in which an arrest was made or a charge was brought or any judge of that circuit designated by the chief judge may, upon verified petition of a person who is the subject of an arrest or a juvenile court proceeding under subsection (1) or (2) of this Section, order the law enforcement records or official court file, or both, to be expunged from the official records of the arresting authority, the clerk of the circuit court and the Department of State Police. Notice of the petition shall be served upon the State's Attorney and upon the arresting authority which is the subject of the petition for expungement.

(4) Upon entry of an order expunging records or files, the offense, which the records or files concern shall be treated as if it never occurred. Law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the person.

(5) Records which have not been expunged are sealed, and may be obtained only under the provisions of Sections 5-901, 5-905 and 5-915.

(6) Nothing in this Section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the offender. This information may only be used for statistical and bona fide research purposes.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/6-6) (from Ch. 37, par. 806-6)

Sec. 6-6. State share of compensation of probation Personnel. (1) Before the 15th day of each month, beginning with August, 1966, there shall be filed with the Supreme Court an itemized statement of the amounts paid, by the county, probation district or counties cooperating informally under Section 6-2, as compensation for Services rendered under this Act pursuant to "An Act providing for a system of probation, for the appointment and compensation of probation officers, and authorizing the suspension of final judgment and the imposition of sentence upon persons found guilty of certain defined crimes and

offenses, and legalizing their ultimate discharge without punishment", approved June 10, 1911, as amended.

(2) Such itemized statement shall be filed by the county treasurer, or, in the case of a probation district or of counties cooperating informally under Section 6-2, by the county treasurer of the most populous county, and shall be certified as to amounts by such county treasurer and the Supreme Court or its designee shall establish a means of verifying compliance with this Section in the manner of appointment or reappointment of and the percentage of time spent by such personnel.

(3) The Supreme Court or its designee shall verify that conditions contained in this Section have been met and transmit the statements to the Comptroller who shall examine and audit the monthly statement and, upon finding it correct, shall voucher for payment to the county treasurer filing the same, for his county, probation district or group of co-operating counties the amount of \$1,000 per month for salaries of qualified probation officers who are paid at least at the annual rate of \$17,000.

(4) To qualify for State reimbursement under this Section, county probation departments or probation districts must conform to the provisions of "An Act providing for a system of probation, for the appointment and compensation of probation officers, and authorizing the suspension of final judgment and the imposition of sentence upon persons found guilty of certain defined crimes and offenses, and legalizing their ultimate discharge without punishment", approved June 10, 1911, as amended. Whether or not a county probation department or probation district applies for State reimbursement, such department or district must abide by the personnel qualifications and hiring procedures promulgated by the Supreme Court pursuant to "An Act providing for a system of probation, for the appointment and compensation of probation officers, and authorizing the suspension of final judgment and the imposition of sentence upon persons found guilty of certain defined crimes and offenses, and legalizing their ultimate discharge without punishment", approved June 10, 1911, as amended.

(5) To qualify for State reimbursement for administrative responsibility for detention institutions for minors, county probation departments or probation districts must provide verification of appropriate screening of each youth prior to admission to detention, as well as on-going and frequent review with appropriate step-down procedures to ensure that detention is utilized only as a last resort and for as short a duration as possible.

(Source: P.A. 85-601.)

Section 25. The Unified Code of Corrections is amended by changing Sections 3-2-2, 3-2-5, 3-3-3, 3-3-4, 3-3-5, 3-3-9, 3-4-3, 3-5-1, 3-5-3.1, 3-6-2, 3-9-1, 3-9-2, 3-9-3, 3-9-4, 3-9-5, 3-9-6, 3-9-7, 3-10-1, 3-10-2, 3-10-3, 3-10-4, 3-10-5, 3-10-6, 3-10-7, 3-10-8, 3-10-9, 3-10-10, 3-10-11, 3-10-12, 3-10-13, 3-16-5, and 5-8-6 and the heading of Article 9 of Chapter III and by adding Article 2.5 to Chapter III as follows:

(730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

Sec. 3-2-2. Powers and Duties of the Department.

(1) In addition to the powers, duties and responsibilities which are otherwise provided by law, the Department shall have the following powers:

(a) To accept persons committed to it by the courts of this State for care, custody, treatment and rehabilitation.

(b) To develop and maintain reception and evaluation units for purposes of analyzing the custody and rehabilitation needs of persons committed to it and to assign such persons to institutions and programs under its control or transfer them to other appropriate agencies. In consultation with the Department of Alcoholism and Substance Abuse (now the Department of Human Services), the Department of Corrections shall develop a master plan for the screening and evaluation of persons committed to its custody who have alcohol or drug abuse problems, and for making appropriate treatment available to such persons; the Department shall report to the General Assembly on such plan not later than April 1, 1987. The maintenance and implementation of such plan shall be contingent upon the availability of funds.

(b-1) To create and implement, on January 1, 2002, a pilot program to establish the effectiveness of pupillometer technology (the measurement of the pupil's reaction to light) as an alternative to a urine test for purposes of screening and evaluating persons committed to its custody who have alcohol or drug problems. The pilot program shall require the pupillometer technology to be used in at least one Department of Corrections facility. The Director may expand the pilot program to include an additional facility or facilities as he or she deems appropriate. A minimum of 4,000 tests shall be included in the pilot program. The Department must report to the General Assembly on the effectiveness of the program by January 1, 2003.

(b-5) To develop, in consultation with the Department of State Police, a program for

tracking and evaluating each inmate from commitment through release for recording his or her gang affiliations, activities, or ranks.

(c) To maintain and administer all State correctional institutions and facilities under its control and to establish new ones as needed. Pursuant to its power to establish new institutions and facilities, the Department may, with the written approval of the Governor, authorize the Department of Central Management Services to enter into an agreement of the type described in subsection (d) of Section 405-300 of the Department of Central Management Services Law (20 ILCS 405/405-300). The Department shall designate those institutions which shall constitute the State Penitentiary System.

Pursuant to its power to establish new institutions and facilities, the Department may authorize the Department of Central Management Services to accept bids from counties and municipalities for the construction, remodeling or conversion of a structure to be leased to the Department of Corrections for the purposes of its serving as a correctional institution or facility. Such construction, remodeling or conversion may be financed with revenue bonds issued pursuant to the Industrial Building Revenue Bond Act by the municipality or county. The lease specified in a bid shall be for a term of not less than the time needed to retire any revenue bonds used to finance the project, but not to exceed 40 years. The lease may grant to the State the option to purchase the structure outright.

Upon receipt of the bids, the Department may certify one or more of the bids and shall submit any such bids to the General Assembly for approval. Upon approval of a bid by a constitutional majority of both houses of the General Assembly, pursuant to joint resolution, the Department of Central Management Services may enter into an agreement with the county or municipality pursuant to such bid.

(c-5) To build and maintain regional juvenile detention centers and to charge a per diem to the counties as established by the Department to defray the costs of housing each minor in a center. In this subsection (c-5), "juvenile detention center" means a facility to house minors during pendency of trial who have been transferred from proceedings under the Juvenile Court Act of 1987 to prosecutions under the criminal laws of this State in accordance with Section 5-805 of the Juvenile Court Act of 1987, whether the transfer was by operation of law or permissive under that Section. The Department shall designate the counties to be served by each regional juvenile detention center.

(d) To develop and maintain programs of control, rehabilitation and employment of committed persons within its institutions.

(e) To establish a system of supervision and guidance of committed persons in the community.

(f) To establish in cooperation with the Department of Transportation to supply a sufficient number of prisoners for use by the Department of Transportation to clean up the trash and garbage along State, county, township, or municipal highways as designated by the Department of Transportation. The Department of Corrections, at the request of the Department of Transportation, shall furnish such prisoners at least annually for a period to be agreed upon between the Director of Corrections and the Director of Transportation. The prisoners used on this program shall be selected by the Director of Corrections on whatever basis he deems proper in consideration of their term, behavior and earned eligibility to participate in such program - where they will be outside of the prison facility but still in the custody of the Department of Corrections. Prisoners convicted of first degree murder, or a Class X felony, or armed violence, or aggravated kidnapping, or criminal sexual assault, aggravated criminal sexual abuse or a subsequent conviction for criminal sexual abuse, or forcible detention, or arson, or a prisoner adjudged a Habitual Criminal shall not be eligible for selection to participate in such program. The prisoners shall remain as prisoners in the custody of the Department of Corrections and such Department shall furnish whatever security is necessary. The Department of Transportation shall furnish trucks and equipment for the highway cleanup program and personnel to supervise and direct the program. Neither the Department of Corrections nor the Department of Transportation shall replace any regular employee with a prisoner.

(g) To maintain records of persons committed to it and to establish programs of research, statistics and planning.

(h) To investigate the grievances of any person committed to the Department, to inquire into any alleged misconduct by employees or committed persons, and to investigate the assets of committed persons to implement Section 3-7-6 of this Code; and for these purposes it may issue subpoenas and compel the attendance of witnesses and the production of writings and papers, and may examine under oath any witnesses who may appear before it; to also investigate alleged violations of a parolee's or releasee's conditions of parole or release; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of documents only if there is reason to believe

that such procedures would provide evidence that such violations have occurred.

If any person fails to obey a subpoena issued under this subsection, the Director may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punishable as contempt of court.

(i) To appoint and remove the chief administrative officers, and administer programs of training and development of personnel of the Department. Personnel assigned by the Department to be responsible for the custody and control of committed persons or to investigate the alleged misconduct of committed persons or employees or alleged violations of a parolee's or releasee's conditions of parole shall be conservators of the peace for those purposes, and shall have the full power of peace officers outside of the facilities of the Department in the protection, arrest, retaking and reconfining of committed persons or where the exercise of such power is necessary to the investigation of such misconduct or violations.

(j) To cooperate with other departments and agencies and with local communities for the development of standards and programs for better correctional services in this State.

(k) To administer all moneys and properties of the Department.

(l) To report annually to the Governor on the committed persons, institutions and programs of the Department.

(l-5) In a confidential annual report to the Governor, the Department shall identify all inmate gangs by specifying each current gang's name, population and allied gangs. The Department shall further specify the number of top leaders identified by the Department for each gang during the past year, and the measures taken by the Department to segregate each leader from his or her gang and allied gangs. The Department shall further report the current status of leaders identified and segregated in previous years. All leaders described in the report shall be identified by inmate number or other designation to enable tracking, auditing, and verification without revealing the names of the leaders. Because this report contains law enforcement intelligence information collected by the Department, the report is confidential and not subject to public disclosure.

(m) To make all rules and regulations and exercise all powers and duties vested by law in the Department.

(n) To establish rules and regulations for administering a system of good conduct credits, established in accordance with Section 3-6-3, subject to review by the Prisoner Review Board.

(o) To administer the distribution of funds from the State Treasury to reimburse counties where State penal institutions are located for the payment of assistant state's attorneys' salaries under Section 4-2001 of the Counties Code.

(p) To exchange information with the Department of Human Services and the Illinois Department of Public Aid for the purpose of verifying living arrangements and for other purposes directly connected with the administration of this Code and the Illinois Public Aid Code.

(q) To establish a diversion program.

The program shall provide a structured environment for selected technical parole or mandatory supervised release violators and committed persons who have violated the rules governing their conduct while in work release. This program shall not apply to those persons who have committed a new offense while serving on parole or mandatory supervised release or while committed to work release.

Elements of the program shall include, but shall not be limited to, the following:

(1) The staff of a diversion facility shall provide supervision in accordance with required objectives set by the facility.

(2) Participants shall be required to maintain employment.

(3) Each participant shall pay for room and board at the facility on a sliding-scale basis according to the participant's income.

(4) Each participant shall:

(A) provide restitution to victims in accordance with any court order;

(B) provide financial support to his dependents; and

(C) make appropriate payments toward any other court-ordered obligations.

(5) Each participant shall complete community service in addition to employment.

(6) Participants shall take part in such counseling, educational and other programs as the Department may deem appropriate.

(7) Participants shall submit to drug and alcohol screening.

(8) The Department shall promulgate rules governing the administration of the program.

(r) To enter into intergovernmental cooperation agreements under which persons in the

custody of the Department may participate in a county impact incarceration program established under Section 3-6038 or 3-15003.5 of the Counties Code.

(r-5) ~~(Blank). To enter into intergovernmental cooperation agreements under which minors adjudicated delinquent and committed to the Department of Corrections, Juvenile Division, may participate in a county juvenile impact incarceration program established under Section 3-6039 of the Counties Code.~~

(r-10) To systematically and routinely identify with respect to each streetgang active within the correctional system: (1) each active gang; (2) every existing inter-gang affiliation or alliance; and (3) the current leaders in each gang. The Department shall promptly segregate leaders from inmates who belong to their gangs and allied gangs. "Segregate" means no physical contact and, to the extent possible under the conditions and space available at the correctional facility, prohibition of visual and sound communication. For the purposes of this paragraph (r-10), "leaders" means persons who:

(i) are members of a criminal streetgang;

(ii) with respect to other individuals within the streetgang, occupy a position of organizer, supervisor, or other position of management or leadership; and

(iii) are actively and personally engaged in directing, ordering, authorizing, or requesting commission of criminal acts by others, which are punishable as a felony, in furtherance of streetgang related activity both within and outside of the Department of Corrections.

"Streetgang", "gang", and "streetgang related" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(s) To operate a super-maximum security institution, in order to manage and supervise inmates who are disruptive or dangerous and provide for the safety and security of the staff and the other inmates.

(t) To monitor any unprivileged conversation or any unprivileged communication, whether in person or by mail, telephone, or other means, between an inmate who, before commitment to the Department, was a member of an organized gang and any other person without the need to show cause or satisfy any other requirement of law before beginning the monitoring, except as constitutionally required. The monitoring may be by video, voice, or other method of recording or by any other means. As used in this subdivision (1)(t), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

As used in this subdivision (1)(t), "unprivileged conversation" or "unprivileged communication" means a conversation or communication that is not protected by any privilege recognized by law or by decision, rule, or order of the Illinois Supreme Court.

(u) To establish a Women's and Children's Pre-release Community Supervision Program for the purpose of providing housing and services to eligible female inmates, as determined by the Department, and their newborn and young children.

(v) To do all other acts necessary to carry out the provisions of this Chapter.

(2) The Department of Corrections shall by January 1, 1998, consider building and operating a correctional facility within 100 miles of a county of over 2,000,000 inhabitants, especially a facility designed to house juvenile participants in the impact incarceration program.

(3) When the Department lets bids for contracts for medical services to be provided to persons committed to Department facilities by a health maintenance organization, medical service corporation, or other health care provider, the bid may only be let to a health care provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds are rated AAA by a bond rating organization.

(4) When the Department lets bids for contracts for food or commissary services to be provided to Department facilities, the bid may only be let to a food or commissary services provider that has obtained an irrevocable letter of credit or performance bond issued by a company whose bonds are rated AAA by a bond rating organization.

(Source: P.A. 91-239, eff. 1-1-00; 91-357, eff. 7-29-99; 92-444, eff. 1-1-02; 92-712, eff. 1-1-03.)

(730 ILCS 5/3-2-5) (from Ch. 38, par. 1003-2-5)

Sec. 3-2-5. Organization of the Department.

(a) There shall be an Adult Division within the Department which shall be administered by an Assistant Director appointed by the Governor under The Civil Administrative Code of Illinois. The Assistant Director shall be under the direction of the Director. The Adult Division shall be responsible for all persons committed or transferred to the Department under Sections 3-10-7 or 5-8-6 of this Code.

(b) ~~(Blank) There shall be a Juvenile Division within the Department which shall be administered by an Assistant Director appointed by the Governor under The Civil Administrative Code of Illinois. The~~

~~Assistant Director shall be under the direction of the Director. The Juvenile Division shall be responsible for all persons committed to the Juvenile Division of the Department under Section 5-8-6 of this Code or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987.~~

(c) The Department shall create a gang intelligence unit under the supervision of the Director. The unit shall be specifically designed to gather information regarding the inmate gang population, monitor the activities of gangs, and prevent the furtherance of gang activities through the development and implementation of policies aimed at deterring gang activity. The Director shall appoint a Corrections Intelligence Coordinator.

All information collected and maintained by the unit shall be highly confidential, and access to that information shall be restricted by the Department. The information shall be used to control and limit the activities of gangs within correctional institutions under the jurisdiction of the Illinois Department of Corrections and may be shared with other law enforcement agencies in order to curb gang activities outside of correctional institutions under the jurisdiction of the Department and to assist in the investigations and prosecutions of gang activity. The Department shall establish and promulgate rules governing the release of information to outside law enforcement agencies. Due to the highly sensitive nature of the information, the information is exempt from requests for disclosure under the Freedom of Information Act as the information contained is highly confidential and may be harmful if disclosed.

The Department shall file an annual report with the General Assembly on the profile of the inmate population associated with gangs, gang-related activity within correctional institutions under the jurisdiction of the Department, and an overall status of the unit as it relates to its function and performance.

(Source: P.A. 90-590, eff. 1-1-99; 91-912, eff. 7-7-00.)

(730 ILCS 5/Ch. III Art. 2.5 heading new)

ARTICLE 2.5. DEPARTMENT OF JUVENILE JUSTICE

(730 ILCS 5/3-2.5-1 new)

Sec. 3-2.5-1. Short title. This Article 2.5 may be cited as the Department of Juvenile Justice Law.

(730 ILCS 5/3-2.5-5 new)

Sec. 3-2.5-5. Purpose. It is the purpose of this Article to provide for the creation of the Department of Juvenile Justice and to transfer to it certain rights, powers, duties, and functions that were exercised by the Juvenile Division of the Department of Corrections before the effective date of this amendatory Act of the 93rd General Assembly.

(730 ILCS 5/3-2.5-10 new)

Sec. 3-2.5-10. Definitions.

(a) For the purposes of this Article, unless the context otherwise requires:

"Department" means the Department of Juvenile Justice.

"Director" means the Director of Juvenile Justice. Any reference to the "Assistant Director of the Juvenile Division" or of a predecessor department or agency occurring in any law or instrument shall, beginning on the effective date of this amendatory Act of the 93rd General Assembly, be construed to mean the Director of Juvenile Justice.

(b) For the purposes of any other Article of this Code, references to "Department" or "Director" refer to either the Department of Corrections or the Director of Corrections or to the Department of Juvenile Justice or the Director of Juvenile Justice unless the context is specific to the Department of Juvenile Justice or the Director of Juvenile Justice.

(730 ILCS 5/3-2.5-15 new)

Sec. 3-2.5-15. Department; Director; organization.

(a) There shall be a Department of Juvenile Justice which shall be administered by a Director appointed by the Governor under the Civil Administrative Code of Illinois. The Department shall be responsible for all juveniles, aged 13 through 16, committed to the State of Illinois under Section 5-8-6 of this Code, Section 5-10 of the Juvenile Court Act, or Section 5-750 of the Juvenile Court Act of 1987. Youth committed to this Department pursuant to this Code shall be sight and sound separate from youth committed to this Department pursuant to the Juvenile Court Act of 1987.

(b) Any minor accused of or found guilty of any act under federal or State law, or a municipal or county ordinance, that would not be illegal if committed by an adult, cannot be placed in a secure facility under the authority of this Department. Juveniles accused or found guilty of underage consumption or underage possession of alcohol cannot be placed in a secure facility under the authority of this Department. The Department of Juvenile Justice shall begin operation on the effective date of this amendatory Act of the 93rd General Assembly.

(c) The Department must establish and adopt statewide standards for admission for detention and incarceration and for appropriate conditions of confinement. These standards shall be developed in

conjunction with an advisory board composed of county board representatives, and shall be established by December 31, 2004 and implemented by June 1, 2005. The advisory board shall also develop criteria for the monitoring of compliance of the statewide standards and penalties for non-compliance.

(d) It is the intent of the General Assembly that for Fiscal Year 2005 only, appropriations to the Department of Juvenile Justice shall not exceed appropriations made to the Juvenile Division of the Department of Corrections for Fiscal Year 2004.

(e) The Department shall be under the direction of the Director of Juvenile Justice as provided in this Code.

(f) The Director shall create divisions and administrative units within the Department and shall assign functions, powers, duties, and personnel as may now or in the future be required by law. The Director may create other divisions and administrative units and may assign other functions, powers, duties, and personnel as may be necessary or desirable to carry out the functions and responsibilities vested by law in the Department.

(g) The Department of Juvenile Justice may enter into intergovernmental cooperation agreements under which minors adjudicated delinquent and committed to the Department of Juvenile Justice may participate in county juvenile impact incarceration program established under Section 3-6039 of the Counties Code.

(730 ILCS 5/3-2.5-20 new)

Sec. 3-2.5-20. General powers and duties.

(a) The Department shall exercise the rights, powers, duties, and functions provided by law, including (but not limited to) the rights, powers, duties, and functions transferred to the Department under this Article.

(b) The Department may employ personnel (in accordance with the Personnel Code), provide facilities, contracts for goods and services, and adopt rules as necessary to carry out its functions and purposes, all in accordance with applicable State and federal law.

(730 ILCS 5/3-2.5-30 new)

Sec. 3-2.5-30. Discontinued department and office; successor agency.

(a) The Juvenile Division of the Department of Corrections is abolished on the effective date of this amendatory Act of the 93rd General Assembly.

(b) The terms of the person then serving as the Assistant Director of the Juvenile Division of the Department of Corrections shall end on the effective date of this amendatory Act of the 93rd General Assembly, and that office is abolished on that date.

(c) For the purposes of the Successor Agency Act, the Department of Juvenile Justice is declared to be the successor agency of the Juvenile Division of the Department of Corrections.

(730 ILCS 5/3-2.5-35 new)

Sec. 3-2.5-35. Transfer of powers. Except as otherwise provided in this Article, all of the rights, powers, duties, and functions vested by law in the Juvenile Division of the Department of Corrections are transferred to the Department of Juvenile Justice on the effective date of this amendatory Act of the 93rd General Assembly.

(730 ILCS 5/3-2.5-40 new)

Sec. 3-2.5-40. Transfer of personnel.

(a) Personnel employed by the Juvenile Division of the Department of Corrections immediately preceding the effective date of this amendatory Act of the 93rd General Assembly are transferred to the Department of Juvenile Justice on the effective date of this amendatory Act of the 93rd General Assembly.

(b) The rights of State employees, the State, and its agencies under the Personnel Code and applicable collective bargaining agreements and retirement plans are not affected by this Article.

(730 ILCS 5/3-2.5-45 new)

Sec. 3-2.5-45. Transfer of property. All books, records, documents, property (real and personal), unexpended appropriations, and pending business pertaining to the rights, powers, duties, and functions transferred to the Department of Juvenile Justice under this Article shall be transferred and delivered to the Department of Juvenile Justice on the effective date of this amendatory Act of the 93rd General Assembly.

(730 ILCS 5/3-2.5-50 new)

Sec. 3-2.5-50. Rules and standards.

(a) The rules and standards of the Juvenile Division of the Department of Corrections that are in effect immediately prior to the effective date of this amendatory Act of the 93rd General Assembly and pertain to the rights, powers, duties, and functions transferred to the Department of Juvenile Justice under this Article shall become the rules and standards of the Department of Juvenile Justice on the effective date

of this amendatory Act of the 93rd General Assembly and shall continue in effect until amended or repealed by the Department.

(b) Any rules pertaining to the rights, powers, duties, and functions transferred to the Department under this Article that have been proposed by the Juvenile Division of the Department of Corrections but have not taken effect or been finally adopted immediately prior to the effective date of this amendatory Act of the 93rd General Assembly shall become proposed rules of the Department of Juvenile Justice on the effective date of this amendatory Act of the 93rd General Assembly, and any rulemaking procedures that have already been completed by the Juvenile Division of the Department of Corrections for those proposed rules need not be repeated.

(c) As soon as practical after the effective date of this amendatory Act of the 93rd General Assembly, the Department of Juvenile Justice shall revise and clarify the rules transferred to it under this Article to reflect the reorganization of rights, powers, duties, and functions effected by this Article using the procedures for recodification of rules available under the Illinois Administrative Procedure Act, except that existing title, part, and section numbering for the affected rules may be retained. The Department may propose and adopt under the Illinois Administrative Procedure Act such other rules as may be necessary to consolidate and clarify the rules of the agency reorganized by this Article.

(730 ILCS 5/3-2.5-60 new)

Sec. 3-2.5-60. Savings provisions.

(a) The rights, powers, duties, and functions transferred to the Department of Juvenile Justice by this Article shall be vested in and exercised by the Department subject to the provisions of this Article. An act done by the Department or an officer, employee, or agent of the Department in the exercise of the transferred rights, powers, duties, or functions shall have the same legal effect as if done by the Juvenile Division of the Department of Corrections or an officer, employee, or agent of the Juvenile Division of the Department of Corrections.

(b) The transfer of rights, powers, duties, and functions to the Department of Juvenile Justice under this Article does not invalidate any previous action taken by or in respect to the Juvenile Division of the Department of Corrections or its officers, employees, or agents. References to the Juvenile Division of the Department of Corrections or its officers, employees or agents in any document, contract, agreement, or law shall, in appropriate contexts, be deemed to refer to the Department or its officers, employees, or agents.

(c) The transfer of rights, powers, duties, and functions to the Department of Juvenile Justice under this Article does not affect any person's rights, obligations, or duties, including any civil or criminal penalties applicable thereto, arising out of those transferred rights, powers, duties, and functions.

(d) With respect to matters that pertain to a right, power, duty, or function transferred to the Department of Juvenile Justice under this Article:

(1) Beginning on the effective date of this amendatory Act of the 93rd General Assembly, a report or notice that was previously required to be made or given by any person to the Juvenile Division of the Department of Corrections or any of its officers, employees, or agents shall be made or given in the same manner to the Department or its appropriate officer, employee, or agent.

(2) Beginning on the effective date of this amendatory Act of the 93rd General Assembly, a document that was previously required to be furnished or served by any person to or upon the Juvenile Division of the Department of Corrections or any of its officers, employees, or agents shall be furnished or served in the same manner to or upon the Department of Juvenile Justice or its appropriate officer, employee, or agent.

(e) This Article does not affect any act done, ratified, or cancelled, any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause before the effective date of this amendatory Act of the 93rd General Assembly. Any such action or proceeding that pertains to a right, power, duty, or function transferred to the Department of Juvenile Justice under this Article and that is pending on that date may be prosecuted, defended, or continued by the Department of Juvenile Justice.

(730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

Sec. 3-3-3. Eligibility for Parole or Release.

(a) Except for those offenders who accept the fixed release date established by the Prisoner Review Board under Section 3-3-2.1, every person serving a term of imprisonment under the law in effect prior to the effective date of this amendatory Act of 1977 shall be eligible for parole when he has served:

- (1) the minimum term of an indeterminate sentence less time credit for good behavior, or 20 years less time credit for good behavior, whichever is less; or
- (2) 20 years of a life sentence less time credit for good behavior; or
- (3) 20 years or one-third of a determinate sentence, whichever is less, less time

credit for good behavior.

(b) No person sentenced under this amendatory Act of 1977 or who accepts a release date under Section 3-3-2.1 shall be eligible for parole.

(c) Except for those sentenced to a term of natural life imprisonment, every person sentenced to imprisonment under this amendatory Act of 1977 or given a release date under Section 3-3-2.1 of this Act shall serve the full term of a determinate sentence less time credit for good behavior and shall then be released under the mandatory supervised release provisions of paragraph (d) of Section 5-8-1 of this Code.

(d) No person serving a term of natural life imprisonment may be paroled or released except through executive clemency.

(e) Every person committed to the Department of Juvenile Justice ~~Juvenile Division~~ under Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987 or Section 5-8-6 of this Code and confined in the State correctional institutions or facilities if such juvenile has not been tried as an adult shall be eligible for parole without regard to the length of time the person has been confined or whether the person has served any minimum term imposed. However, if a juvenile has been tried as an adult he shall only be eligible for parole or mandatory supervised release as an adult under this Section.

(Source: P.A. 90-590, eff. 1-1-99.)

(730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

Sec. 3-3-4. Preparation for Parole Hearing.

(a) The Prisoner Review Board shall consider the parole of each eligible person committed to the Adult Division at least 30 days prior to the date he shall first become eligible for parole, and shall consider the parole of each person committed to the Department of Juvenile Justice ~~Juvenile Division~~ as a delinquent at least 30 days prior to the expiration of the first year of confinement.

(b) A person eligible for parole shall, in advance of his parole hearing, prepare a parole plan in accordance with the rules of the Prisoner Review Board. The person shall be assisted in preparing his parole plan by personnel of the Department of Corrections, or the Department of Juvenile Justice in the case of a person committed to that Department, and may, for this purpose, be released on furlough under Article 11 or on authorized absence under Section 3-9-4. The appropriate Department shall also provide assistance in obtaining information and records helpful to the individual for his parole hearing.

(c) The members of the Board shall have access at all reasonable times to any committed person and to his master record file within the Department, and the Department shall furnish such reports to the Board as the Board may require concerning the conduct and character of any such person.

(d) In making its determination of parole, the Board shall consider:

(1) material transmitted to the Department of Juvenile Justice by the clerk of the committing court under

Section 5-4-1 or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987;

(2) the report under Section 3-8-2 or 3-10-2;

(3) a report by the Department and any report by the chief administrative officer of the institution or facility;

(4) a parole progress report;

(5) a medical and psychological report, if requested by the Board;

(6) material in writing, or on film, video tape or other electronic means in the form of a recording submitted by the person whose parole is being considered; and

(7) material in writing, or on film, video tape or other electronic means in the form of a recording or testimony submitted by the State's Attorney and the victim pursuant to the Rights of Crime Victims and Witnesses Act.

(e) The prosecuting State's Attorney's office shall receive reasonable written notice not less than 15 days prior to the parole hearing and may submit relevant information in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. The State's Attorney may waive the written notice.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole hearing as provided in paragraph (4) of subsection (d) of Section 4.5 of the Rights of Crime Victims and Witnesses Act.

(g) Any recording considered under the provisions of subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be both visual and aural. Every voice on the recording and person present shall be identified and the recording shall contain either a visual or aural statement of the person submitting such recording, the date of the recording and the name of the

person whose parole eligibility is being considered. Such recordings, if retained by the Board shall be deemed to be submitted at any subsequent parole hearing if the victim or State's Attorney submits in writing a declaration clearly identifying such recording as representing the present position of the victim or State's Attorney regarding the issues to be considered at the parole hearing.

(Source: P.A. 92-651, eff. 7-11-02.)

(730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

Sec. 3-3-5. Hearing and Determination.

(a) The Prisoner Review Board shall meet as often as need requires to consider the cases of persons eligible for parole. Except as otherwise provided in paragraph (2) of subsection (a) of Section 3-3-2 of this Act, the Prisoner Review Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the ~~Department of Juvenile Justice Juvenile Division~~, the panel shall have at least a majority of members experienced in juvenile matters.

(b) If the person under consideration for parole is in the custody of the Department, at least one member of the Board shall interview him, and a report of that interview shall be available for the Board's consideration. However, in the discretion of the Board, the interview need not be conducted if a psychiatric examination determines that the person could not meaningfully contribute to the Board's consideration. The Board may in its discretion parole a person who is then outside the jurisdiction on his record without an interview. The Board need not hold a hearing or interview a person who is paroled under paragraphs (d) or (e) of this Section or released on Mandatory release under Section 3-3-10.

(c) The Board shall not parole a person eligible for parole if it determines that:

(1) there is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) his release at that time would deprecate the seriousness of his offense or promote disrespect for the law; or

(3) his release would have a substantially adverse effect on institutional discipline.

(d) A person committed under the Juvenile Court Act or the Juvenile Court Act of 1987 who has not been sooner released shall be paroled on or before his 20th birthday to begin serving a period of parole under Section 3-3-8.

(e) A person who has served the maximum term of imprisonment imposed at the time of sentencing less time credit for good behavior shall be released on parole to serve a period of parole under Section 5-8-1.

(f) The Board shall render its decision within a reasonable time after hearing and shall state the basis therefor both in the records of the Board and in written notice to the person on whose application it has acted. In its decision, the Board shall set the person's time for parole, or if it denies parole it shall provide for a rehearing not less frequently than once every year, except that the Board may, after denying parole, schedule a rehearing no later than 3 years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. If the Board shall parole a person, and, if he is not released within 90 days from the effective date of the order granting parole, the matter shall be returned to the Board for review.

(g) The Board shall maintain a registry of decisions in which parole has been granted, which shall include the name and case number of the prisoner, the highest charge for which the prisoner was sentenced, the length of sentence imposed, the date of the sentence, the date of the parole, the basis for the decision of the Board to grant parole and the vote of the Board on any such decisions. The registry shall be made available for public inspection and copying during business hours and shall be a public record pursuant to the provisions of the Freedom of Information Act.

(h) The Board shall promulgate rules regarding the exercise of its discretion under this Section.

(Source: P.A. 91-798, eff. 7-9-00; 91-946, eff. 2-9-01.)

(730 ILCS 5/3-3-9) (from Ch. 38, par. 1003-3-9)

Sec. 3-3-9. Violations; changes of conditions; preliminary hearing; revocation of parole or mandatory supervised release; revocation hearing.

(a) If prior to expiration or termination of the term of parole or mandatory supervised release, a person violates a condition set by the Prisoner Review Board or a condition of parole or mandatory supervised release under Section 3-3-7 of this Code to govern that term, the Board may:

(1) continue the existing term, with or without modifying or enlarging the conditions;

or

(2) parole or release the person to a half-way house; or

(3) revoke the parole or mandatory supervised release and reconfine the person for a term computed in the following manner:

(i) (A) For those sentenced under the law in effect prior to this amendatory Act of 1977, the recommitment shall be for any portion of the imposed maximum term of imprisonment or confinement which had not been served at the time of parole and the parole term, less the time elapsed between the parole of the person and the commission of the violation for which parole was revoked;

(B) For those subject to mandatory supervised release under paragraph (d) of Section 5-8-1 of this Code, the recommitment shall be for the total mandatory supervised release term, less the time elapsed between the release of the person and the commission of the violation for which mandatory supervised release is revoked. The Board may also order that a prisoner serve up to one year of the sentence imposed by the court which was not served due to the accumulation of good conduct credit.

(ii) the person shall be given credit against the term of reimprisonment or reconfinement for time spent in custody since he was paroled or released which has not been credited against another sentence or period of confinement;

(iii) persons committed under the Juvenile Court Act or the Juvenile Court Act of 1987 shall be recommitted until the age of 21;

(iv) this Section is subject to the release under supervision and the reparole and rerelease provisions of Section 3-3-10.

(b) The Board may revoke parole or mandatory supervised release for violation of a condition for the duration of the term and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration. The issuance of a warrant of arrest for an alleged violation of the conditions of parole or mandatory supervised release shall toll the running of the term until the final determination of the charge, but where parole or mandatory supervised release is not revoked that period shall be credited to the term.

(c) A person charged with violating a condition of parole or mandatory supervised release shall have a preliminary hearing before a hearing officer designated by the Board to determine if there is cause to hold the person for a revocation hearing. However, no preliminary hearing need be held when revocation is based upon new criminal charges and a court finds probable cause on the new criminal charges or when the revocation is based upon a new criminal conviction and a certified copy of that conviction is available.

(d) Parole or mandatory supervised release shall not be revoked without written notice to the offender setting forth the violation of parole or mandatory supervised release charged against him.

(e) A hearing on revocation shall be conducted before at least one member of the Prisoner Review Board. The Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice Juvenile Division, the member hearing the matter and at least a majority of the panel shall be experienced in juvenile matters. A record of the hearing shall be made. At the hearing the offender shall be permitted to:

- (1) appear and answer the charge; and
- (2) bring witnesses on his behalf.

(f) The Board shall either revoke parole or mandatory supervised release or order the person's term continued with or without modification or enlargement of the conditions.

(g) Parole or mandatory supervised release shall not be revoked for failure to make payments under the conditions of parole or release unless the Board determines that such failure is due to the offender's willful refusal to pay.

(Source: P.A. 92-460, eff. 1-1-02.)

(730 ILCS 5/3-4-3) (from Ch. 38, par. 1003-4-3)

Sec. 3-4-3. Funds and Property of Persons Committed.

(a) The Department of Corrections and the Department of Juvenile Justice shall establish accounting records with accounts for each person who has or receives money while in an institution or facility of that the Department and it shall allow the withdrawal and disbursement of money by the person under rules and regulations of that the Department. Any interest or other income from moneys deposited with the Department by a resident of the Department of Juvenile Justice Juvenile Division in excess of \$200 shall accrue to the individual's account, or in balances up to \$200 shall accrue to the Residents' Benefit Fund. For an individual in an institution or facility of the Adult Division the interest shall accrue to the Residents' Benefit Fund. The Department shall disburse all moneys so held no later than the person's final discharge from the Department. Moneys in the account of a committed person who files a lawsuit determined frivolous under Article XXII of the Code of Civil Procedure shall be deducted to pay for the filing fees and cost of the suit as provided in that Article. The Department shall under rules and

regulations record and receipt all personal property not allowed to committed persons. The Department shall return such property to the individual no later than the person's release on parole.

(b) Any money held in accounts of committed persons separated from the Department by death, discharge, or unauthorized absence and unclaimed for a period of 1 year thereafter by the person or his legal representative shall be transmitted to the State Treasurer who shall deposit it into the General Revenue Fund. Articles of personal property of persons so separated may be sold or used by the Department if unclaimed for a period of 1 year for the same purpose. Clothing, if unclaimed within 30 days, may be used or disposed of as determined by the Department.

(c) Forty percent of the profits on sales from commissary stores shall be expended by the Department for the special benefit of committed persons which shall include but not be limited to the advancement of inmate payrolls, for the special benefit of employees, and for the advancement or reimbursement of employee travel, provided that amounts expended for employees shall not exceed the amount of profits derived from sales made to employees by such commissaries, as determined by the Department. The remainder of the profits from sales from commissary stores must be used first to pay for wages and benefits of employees covered under a collective bargaining agreement who are employed at commissary facilities of the Department and then to pay the costs of dietary staff.

(d) The Department shall confiscate any unauthorized currency found in the possession of a committed person. The Department shall transmit the confiscated currency to the State Treasurer who shall deposit it into the General Revenue Fund.

(Source: P.A. 93-607, eff. 1-1-04.)

(730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

Sec. 3-5-1. Master Record File.

(a) The Department of Corrections and the Department of Juvenile Justice shall maintain a master record file on each person committed to it, which shall contain the following information:

- (1) all information from the committing court;
- (2) reception summary;
- (3) evaluation and assignment reports and recommendations;
- (4) reports as to program assignment and progress;
- (5) reports of disciplinary infractions and disposition;
- (6) any parole plan;
- (7) any parole reports;
- (8) the date and circumstances of final discharge; and any other pertinent data

concerning the person's background, conduct, associations and family relationships as may be required by the respective Department. A current summary index shall be maintained on each file which shall include the person's known active and past gang affiliations and ranks.

(b) All files shall be confidential and access shall be limited to authorized personnel of the respective Department. Personnel of other correctional, welfare or law enforcement agencies may have access to files under rules and regulations of the respective Department. The respective Department shall keep a record of all outside personnel who have access to files, the files reviewed, any file material copied, and the purpose of access. If the respective Department or the Prisoner Review Board makes a determination under this Code which affects the length of the period of confinement or commitment, the committed person and his counsel shall be advised of factual information relied upon by the respective Department or Board to make the determination, provided that the Department or Board shall not be required to advise a person committed to the Department of Juvenile Justice Juvenile Division any such information which in the opinion of the Department of Juvenile Justice or Board would be detrimental to his treatment or rehabilitation.

(c) The master file shall be maintained at a place convenient to its use by personnel of the respective Department in charge of the person. When custody of a person is transferred from the Department to another department or agency, a summary of the file shall be forwarded to the receiving agency with such other information required by law or requested by the agency under rules and regulations of the respective Department.

(d) The master file of a person no longer in the custody of the respective Department shall be placed on inactive status and its use shall be restricted subject to rules and regulations of the Department.

(e) All public agencies may make available to the respective Department on request any factual data not otherwise privileged as a matter of law in their possession in respect to individuals committed to the respective Department.

(Source: P.A. 89-688, eff. 6-1-97; 89-689, eff. 12-31-96.)

(730 ILCS 5/3-5-3.1) (from Ch. 38, par. 1003-5-3.1)

Sec. 3-5-3.1. As used in this Section, "facility" includes any facility of the Adult Division ~~and any~~

~~facility of the Juvenile Division~~ of the Department of Corrections and any facility of the Department of Juvenile Justice.

The Department of Corrections and the Department of Juvenile Justice shall each, by January 1st, April 1st, July 1st, and October 1st of each year, transmit to the General Assembly, a report which shall include the following information reflecting the period ending fifteen days prior to the submission of the report: 1) the number of residents in all Department facilities indicating the number of residents in each listed facility; 2) a classification of each facility's residents by the nature of the offense for which each resident was committed to the Department; 3) the number of residents in maximum, medium, and minimum security facilities indicating the classification of each facility's residents by the nature of the offense for which each resident was committed to the Department; 4) the educational and vocational programs provided at each facility and the number of residents participating in each such program; 5) the present capacity levels in each facility; 6) the projected capacity of each facility six months and one year following each reporting date; 7) the ratio of the security guards to residents in each facility; 8) the ratio of total employees to residents in each facility; 9) the number of residents in each facility that are single-celled and the number in each facility that are double-celled; 10) information indicating the distribution of residents in each facility by the allocated floor space per resident; 11) a status of all capital projects currently funded by the Department, location of each capital project, the projected on-line dates for each capital project, including phase-in dates and full occupancy dates; 12) the projected adult prison ~~and Juvenile Division~~ facility populations in respect to the Department of Corrections and the projected juvenile facility population with respect to the Department of Juvenile Justice for each of the succeeding twelve months following each reporting date, indicating all assumptions built into such population estimates; 13) the projected exits and projected admissions in each facility for each of the succeeding twelve months following each reporting date, indicating all assumptions built into such population estimate; and 14) the locations of all Department-operated or contractually operated community correctional centers, including the present capacity and population levels at each facility.

(Source: P.A. 85-252.)

(730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

Sec. 3-6-2. Institutions and Facility Administration.

(a) Each institution and facility of the Department shall be administered by a chief administrative officer appointed by the Director. A chief administrative officer shall be responsible for all persons assigned to the institution or facility. The chief administrative officer shall administer the programs of the Department for the custody and treatment of such persons.

(b) The chief administrative officer shall have such assistants as the Department may assign.

(c) The Director or Assistant Director shall have the emergency powers to temporarily transfer individuals without formal procedures to any State, county, municipal or regional correctional or detention institution or facility in the State, subject to the acceptance of such receiving institution or facility, or to designate any reasonably secure place in the State as such an institution or facility and to make transfers thereto. However, transfers made under emergency powers shall be reviewed as soon as practicable under Article 8, and shall be subject to Section 5-905 of the Juvenile Court Act of 1987. This Section shall not apply to transfers to the Department of Human Services which are provided for under Section 3-8-5 or Section 3-10-5.

(d) The Department shall provide educational programs for all committed persons so that all persons have an opportunity to attain the achievement level equivalent to the completion of the twelfth grade in the public school system in this State. Other higher levels of attainment shall be encouraged and professional instruction shall be maintained wherever possible. The Department may establish programs of mandatory education and may establish rules and regulations for the administration of such programs. A person committed to the Department who, during the period of his or her incarceration, participates in an educational program provided by or through the Department and through that program is awarded or earns the number of hours of credit required for the award of an associate, baccalaureate, or higher degree from a community college, college, or university located in Illinois shall reimburse the State, through the Department, for the costs incurred by the State in providing that person during his or her incarceration with the education that qualifies him or her for the award of that degree. The costs for which reimbursement is required under this subsection shall be determined and computed by the Department under rules and regulations that it shall establish for that purpose. However, interest at the rate of 6% per annum shall be charged on the balance of those costs from time to time remaining unpaid, from the date of the person's parole, mandatory supervised release, or release constituting a final termination of his or her commitment to the Department until paid.

(e) A person committed to the Department who becomes in need of medical or surgical treatment but

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is incapable of giving consent thereto shall receive such medical or surgical treatment by the chief administrative officer consenting on the person's behalf. Before the chief administrative officer consents, he or she shall obtain the advice of one or more physicians licensed to practice medicine in all its branches in this State. If such physician or physicians advise:

(1) that immediate medical or surgical treatment is required relative to a condition threatening to cause death, damage or impairment to bodily functions, or disfigurement; and

(2) that the person is not capable of giving consent to such treatment; the chief administrative officer may give consent for such medical or surgical treatment, and such consent shall be deemed to be the consent of the person for all purposes, including, but not limited to, the authority of a physician to give such treatment.

(f) In the event that the person requires medical care and treatment at a place other than the institution or facility, the person may be removed therefrom under conditions prescribed by the Department. The Department shall require the committed person receiving medical or dental services on a non-emergency basis to pay a \$2 co-payment to the Department for each visit for medical or dental services. The amount of each co-payment shall be deducted from the committed person's individual account. A committed person who has a chronic illness, as defined by Department rules and regulations, shall be exempt from the \$2 co-payment for treatment of the chronic illness. A committed person shall not be subject to a \$2 co-payment for follow-up visits ordered by a physician, who is employed by, or contracts with, the Department. A committed person who is indigent is exempt from the \$2 co-payment and is entitled to receive medical or dental services on the same basis as a committed person who is financially able to afford the co-payment. Notwithstanding any other provision in this subsection (f) to the contrary, any person committed to any facility operated by the ~~Department of Juvenile Justice Juvenile Division~~, as set forth in ~~subsection (b) of Section 3-2.5-15 3-2-5~~ of this Code, is exempt from the co-payment requirement for the duration of confinement in those facilities.

(g) Any person having sole custody of a child at the time of commitment or any woman giving birth to a child after her commitment, may arrange through the Department of Children and Family Services for suitable placement of the child outside of the Department of Corrections. The Director of the Department of Corrections may determine that there are special reasons why the child should continue in the custody of the mother until the child is 6 years old.

(h) The Department may provide Family Responsibility Services which may consist of, but not be limited to the following:

(1) family advocacy counseling;

(2) parent self-help group;

(3) parenting skills training;

(4) parent and child overnight program;

(5) parent and child reunification counseling, either separately or together, preceding the inmate's release; and

(6) a prerelease reunification staffing involving the family advocate, the inmate and the child's counselor, or both and the inmate.

(i) Prior to the release of any inmate who has a documented history of intravenous drug use, and upon the receipt of that inmate's written informed consent, the Department shall provide for the testing of such inmate for infection with human immunodeficiency virus (HIV) and any other identified causative agent of acquired immunodeficiency syndrome (AIDS). The testing provided under this subsection shall consist of an enzyme-linked immunosorbent assay (ELISA) test or such other test as may be approved by the Illinois Department of Public Health. If the test result is positive, the Western Blot Assay or more reliable confirmatory test shall be administered. All inmates tested in accordance with the provisions of this subsection shall be provided with pre-test and post-test counseling. Notwithstanding any provision of this subsection to the contrary, the Department shall not be required to conduct the testing and counseling required by this subsection unless sufficient funds to cover all costs of such testing and counseling are appropriated for that purpose by the General Assembly.

(j) Any person convicted of a sex offense as defined in the Sex Offender Management Board Act shall be required to receive a sex offender evaluation prior to release into the community from the Department of Corrections. The sex offender evaluation shall be conducted in conformance with the standards and guidelines developed under the Sex Offender Management Board Act and by an evaluator approved by the Board.

(k) Any minor committed to the Department of ~~Juvenile Justice Corrections Juvenile Division~~ for a sex offense as defined by the Sex Offender Management Board Act shall be required to undergo sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the Sex Offender Management Board Act.

(Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04.)

(730 ILCS 5/Ch. III Art. 9 heading)

ARTICLE 9. PROGRAMS OF THE
DEPARTMENT OF JUVENILE JUSTICE
~~JUVENILE DIVISION~~

(730 ILCS 5/3-9-1) (from Ch. 38, par. 1003-9-1)

Sec. 3-9-1. Educational Programs. (a) All institutions or facilities housing persons of such age as to be subject to compulsory school attendance shall establish an educational program to provide such persons the opportunity to attain an elementary and secondary school education equivalent to the completion of the twelfth grade in the public school systems of this State; and, in furtherance thereof, shall utilize assistance from local public school districts and State agencies in established curricula and staffing such program.

(b) All institutions or facilities housing persons not subject to compulsory school attendance shall make available programs and training to provide such persons an opportunity to attain an elementary and secondary school education equivalent to the completion of the twelfth grade in the public school systems of this State; and, in furtherance thereof, such institutions or facilities may utilize assistance from local public school districts and State agencies in creating curricula and staffing the program.

(c) The Department of Juvenile Justice ~~Corrections~~ shall develop and establish a suicide reduction program in all institutions or facilities housing persons committed to the Department of Juvenile Justice ~~Juvenile Division~~. The program shall be designed to increase the life coping skills and self esteem of juvenile offenders and to decrease their propensity to commit self destructive acts.

(Source: P.A. 85-736.)

(730 ILCS 5/3-9-2) (from Ch. 38, par. 1003-9-2)

Sec. 3-9-2. Work Training Programs.

(a) The Department of Juvenile Justice ~~Juvenile Division~~, in conjunction with the private sector, may establish and offer work training to develop work habits and equip persons committed to it with marketable skills to aid in their community placement upon release. Committed persons participating in this program shall be paid wages similar to those of comparable jobs in the surrounding community. A portion of the wages earned shall go to the Department of Juvenile Justice ~~Juvenile Division~~ to pay part of the committed person's room and board, a portion shall be deposited into the Violent Crime Victim's Assistance Fund to assist victims of crime, and the remainder shall be placed into a savings account for the committed person which shall be given to the committed person upon release. The Department shall promulgate rules to regulate the distribution of the wages earned.

(b) The Department of Juvenile Justice ~~Juvenile Division~~ may establish programs of incentive by achievement, participation in which shall be on a voluntary basis, to sell goods or services to the public with the net earnings distributed to the program participants subject to rules of the Department of Juvenile Justice.

(Source: P.A. 87-199.)

(730 ILCS 5/3-9-3) (from Ch. 38, par. 1003-9-3)

Sec. 3-9-3. Day Release.

(a) The Department of Juvenile Justice may institute day release programs for persons committed to the Department of Juvenile Justice ~~Juvenile Division~~ and shall establish rules and regulations therefor.

(b) The Department of Juvenile Justice may arrange with local schools, public or private agencies or persons approved by the Department for the release of persons committed to the Department of Juvenile Justice ~~Juvenile Division~~ on a daily basis to the custody of such schools, agencies or persons for participation in programs or activities.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-9-4) (from Ch. 38, par. 1003-9-4)

Sec. 3-9-4. Authorized Absence.

The Department of Juvenile Justice may extend the limits of the place of confinement of a person committed to the Department of Juvenile Justice ~~Juvenile Division~~ so that he may leave such place on authorized absence. Whether or not such person is to be accompanied shall be determined by the chief administrative officer of the institution or facility from which such authorized absence is granted. An authorized absence may be granted for a period of time determined by the Department of Juvenile Justice and any purpose approved by the Department of Juvenile Justice.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-9-5) (from Ch. 38, par. 1003-9-5)

Sec. 3-9-5. Minimum Standards.

The minimum standards under Article 7 shall apply to all institutions and facilities under the authority

of the Department of Juvenile Justice Juvenile Division.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-9-6) (from Ch. 38, par. 1003-9-6)

Sec. 3-9-6. Unauthorized Absence. Whenever a person committed to the Department of Juvenile Justice Juvenile Division of the Department of Corrections absconds or absents himself or herself without authority to do so, from any facility or program to which he or she is assigned, he or she may be held in custody for return to the proper correctional official by the authorities or whomsoever directed, when an order is certified by the Director of Juvenile Justice or a person duly designated by the Director, with the seal of the Department of Juvenile Justice Corrections attached. The person so designated by the Director of Juvenile Justice with such seal attached may be one or more persons and the appointment shall be made as a ministerial one with no recordation or notice necessary as to the designated appointees. The order shall be directed to all sheriffs, coroners, police officers, keepers or custodians of jails or other detention facilities whether in or out of the State of Illinois, or to any particular person named in the order.

(Source: P.A. 83-346.)

(730 ILCS 5/3-9-7) (from Ch. 38, par. 1003-9-7)

Sec. 3-9-7. Sexual abuse counseling programs.

(a) The Department of Juvenile Justice Juvenile Division shall establish and offer sexual abuse counseling to both victims of sexual abuse and sexual offenders in as many facilities as necessary to insure sexual abuse counseling throughout the State.

(b) Any minor committed to the Department of Juvenile Justice Corrections Juvenile Division for a sex offense as defined under the Sex Offender Management Board Act shall be required to undergo sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed by the Sex Offender Management Board Act.

(Source: P.A. 93-616, eff. 1-1-04.)

(730 ILCS 5/3-10-1) (from Ch. 38, par. 1003-10-1)

Sec. 3-10-1. Receiving Procedures.

The receiving procedures under Section 3-8-1 shall be applicable to institutions and facilities of the Department of Juvenile Justice Juvenile Division.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

Sec. 3-10-2. Examination of Persons Committed to the Department of Juvenile Justice Juvenile Division.

(a) A person committed to the Department of Juvenile Justice Juvenile Division shall be examined in regard to his medical, psychological, social, educational and vocational condition and history, including the use of alcohol and other drugs, the circumstances of his offense and any other information as the Department of Juvenile Justice may determine.

(b) Based on its examination, the Department of Juvenile Justice may exercise the following powers in developing a treatment program of any person committed to the Department of Juvenile Justice Juvenile Division:

(1) Require participation by him in vocational, physical, educational and corrective training and activities to return him to the community.

(2) Place him in any institution or facility of the Department of Juvenile Justice Juvenile Division.

(3) Order replacement or referral to the Parole and Pardon Board as often as it deems desirable. The Department of Juvenile Justice shall refer the person to the Parole and Pardon Board as required under Section 3-3-4.

(4) Enter into agreements with the Secretary of Human Services and the Director of Children and Family Services, with courts having probation officers, and with private agencies or institutions for separate care or special treatment of persons subject to the control of the Department.

(c) The Department shall make periodic reexamination of all persons under the control of the Department of Juvenile Justice Juvenile Division to determine whether existing orders in individual cases should be modified or continued. This examination shall be made with respect to every person at least once annually.

(d) A record of the treatment decision including any modification thereof and the reason therefor, shall be part of the committed person's master record file.

(e) The Department of Juvenile Justice shall by certified mail, return receipt requested, notify the parent, guardian or nearest relative of any person committed to the Department of Juvenile Justice Juvenile Division of his physical location and any change thereof.

(Source: P.A. 89-507, eff. 7-1-97.)

(730 ILCS 5/3-10-3) (from Ch. 38, par. 1003-10-3)

Sec. 3-10-3. Program Assignment.

(a) The chief administrative officer of each institution or facility of the Department of Juvenile Justice ~~Juvenile Division~~ shall designate a person or persons to classify and assign juveniles to programs in the institution or facility.

(b) The program assignment of persons assigned to institutions or facilities of the Department of Juvenile Justice ~~Juvenile Division~~ shall be made on the following basis:

(1) As soon as practicable after he is received, and in any case no later than the expiration of the first 30 days, his file shall be studied and he shall be interviewed and a determination made as to the program of education, employment, training, treatment, care and custody appropriate for him. A record of such program assignment shall be made and shall be a part of his master record file. A staff member shall be designated for each person as his staff counselor.

(2) The program assignment shall be reviewed at least once every 3 months and he shall be interviewed if it is deemed desirable or if he so requests. After review, such changes in his program of education, employment, training, treatment, care and custody may be made as is considered necessary or desirable and a record thereof made a part of his file. If he requests a change in his program and such request is denied, the basis for denial shall be given to him and a written statement thereof shall be made a part of his file.

(c) The Department may promulgate rules and regulations governing the administration of treatment programs within institutions and facilities of the Department of Juvenile Justice.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-10-4) (from Ch. 38, par. 1003-10-4)

Sec. 3-10-4. Intradivisional Transfers.

(a) The transfer of committed persons between institutions or facilities of the Department of Juvenile Justice ~~Juvenile Division~~ shall be under this Section, except that emergency transfers shall be under Section 3-6-2.

(b) The chief administrative officer of an institution or facility desiring to transfer a committed person to another institution or facility shall notify the ~~Assistant~~ Director of Juvenile Justice ~~the Juvenile Division~~ or his delegate of the basis for the transfer. The ~~Assistant~~ Director or his delegate shall approve or deny such request.

(c) If a transfer request is made by a committed person or his parent, guardian or nearest relative, the chief administrative officer of the institution or facility from which the transfer is requested shall notify the Director of Juvenile Justice ~~Assistant Director of the Juvenile Division~~ or his delegate of the request, the reasons therefor and his recommendation. The ~~Assistant~~ Director of Juvenile Justice or his delegate shall either grant the request or if he denies the request he shall advise the person or his parent, guardian or nearest relative of the basis for the denial.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-10-5) (from Ch. 38, par. 1003-10-5)

Sec. 3-10-5. Transfers to the Department of Human Services.

(a) If a person committed to the Department of Juvenile Justice ~~Juvenile Division~~ meets the standard for admission of a minor to a mental health facility or is suitable for admission to a developmental disability facility, as these terms are used in the Mental Health and Developmental Disabilities Code, the Department may transfer the person to an appropriate State hospital or institution of the Department of Human Services for a period not to exceed 6 months, if the person consents in writing to the transfer. The person shall be advised of his right not to consent, and if he does not consent, the transfer may be effected only by commitment under paragraph (e) of this Section.

(b) The parent, guardian or nearest relative and the attorney of record shall be advised of his right to object. If an objection is made, the transfer may be effected only by commitment under paragraph (e) of this Section. Notice of the transfer shall be mailed to the person's parent, guardian or nearest relative marked for delivery to addressee only at his last known address by certified mail with return receipt requested together with written notification of the manner and time within which he may object to the transfer. Objection to the transfer must be made by the parent, guardian or nearest relative within 15 days of receipt of the notification of transfer, by written notice of the objection to the ~~Assistant~~ Director of Juvenile Justice or chief administrative officer of the institution or facility of the Department of Juvenile Justice where the person was confined.

(c) If a person committed to the Department under the Juvenile Court Act or the Juvenile Court Act of 1987 is committed to a hospital or facility of the Department of Human Services under this Section, the ~~Assistant~~ Director of Juvenile Justice ~~the Juvenile Division~~ shall so notify the committing juvenile court.

(d) Nothing in this Section shall limit the right of the ~~Assistant~~ Director of Juvenile Justice ~~the~~

~~Juvenile Division~~ or the chief administrative officer of any institution or facility to utilize the emergency admission provisions of the Mental Health and Developmental Disabilities Code with respect to any person in his custody or care. The transfer of a person to an institution or facility of the Department of Human Services under paragraph (a) of this Section does not discharge the person from the control of the Department of Juvenile Justice.

(e) If the person does not consent to his transfer to the Department of Human Services or if a person objects under paragraph (b) of this Section, or if the Department of Human Services determines that a transferred person requires admission to the Department of Human Services for more than 6 months for any reason, the ~~Assistant Director of Juvenile Justice~~ the Juvenile Division shall file a petition in the circuit court of the county in which the institution or facility is located requesting admission of the person to the Department of Human Services. A certificate of a clinical psychologist, licensed clinical social worker who is a qualified examiner as defined in Section 1-122 of the Mental Health and Developmental Disabilities Code, or psychiatrist, or, if admission to a developmental disability facility is sought, of a physician that the person is in need of commitment to the Department of Human Services for treatment or habilitation shall be attached to the petition. Copies of the petition shall be furnished to the named person, his parent, or guardian or nearest relative, the committing court, and to the state's attorneys of the county in which the institution or facility of the Department of Juvenile Justice ~~Juvenile Division~~ from which the person was transferred is located and the county from which the named person was committed to the Department of Juvenile Justice ~~Corrections~~.

(f) The court shall set a date for a hearing on the petition within the time limit set forth in the Mental Health and Developmental Disabilities Code. The hearing shall be conducted in the manner prescribed by the Mental Health and Developmental Disabilities Code. If the person is found to be in need of commitment to the Department of Human Services for treatment or habilitation, the court may commit him to that Department.

(g) In the event that a person committed to the Department under the Juvenile Court Act or the Juvenile Court Act of 1987 is committed to facilities of the Department of Human Services under paragraph (e) of this Section, the ~~Assistant Director of Juvenile Justice~~ shall petition the committing juvenile court for an order terminating the ~~Assistant Director's~~ custody.

(Source: P.A. 89-507, eff. 7-1-97.)

(730 ILCS 5/3-10-6) (from Ch. 38, par. 1003-10-6)

Sec. 3-10-6. Return and Release from Department of Human Services.

(a) The Department of Human Services shall return to the Department of Juvenile Justice ~~Juvenile Division~~ any person committed to a facility of the Department under paragraph (a) of Section 3-10-5 when the person no longer meets the standard for admission of a minor to a mental health facility, or is suitable for administrative admission to a developmental disability facility.

(b) If a person returned to the Department of Juvenile Justice ~~Juvenile Division~~ under paragraph (a) of this Section has not had a parole hearing within the preceding 6 months, he shall have a parole hearing within 45 days after his return.

(c) The Department of Juvenile Justice ~~Juvenile Division~~ shall notify the Secretary of Human Services of the expiration of the commitment or sentence of any person transferred to the Department of Human Services under Section 3-10-5. If the Department of Human Services determines that such person transferred to it under paragraph (a) of Section 3-10-5 requires further hospitalization, it shall file a petition for commitment of such person under the Mental Health and Developmental Disabilities Code.

(d) The Department of Human Services shall release under the Mental Health and Developmental Disabilities Code, any person transferred to it pursuant to paragraph (c) of Section 3-10-5, whose sentence has expired and whom it deems no longer meets the standard for admission of a minor to a mental health facility, or is suitable for administrative admission to a developmental disability facility. A person committed to the Department of Juvenile Justice ~~Corrections~~ under the Juvenile Court Act or the Juvenile Court Act of 1987 and transferred to the Department of Human Services under paragraph (c) of Section 3-10-5 shall be released to the committing juvenile court when the Department of Human Services determines that he no longer requires hospitalization for treatment.

(Source: P.A. 89-507, eff. 7-1-97.)

(730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

Sec. 3-10-7. Interdivisional Transfers. (a) In any case where a minor was originally prosecuted under the provisions of the Criminal Code of 1961, as amended, and sentenced under the provisions of this Act pursuant to Section 2-7 of the Juvenile Court Act or Section 5-805 of the Juvenile Court Act of 1987 and committed to the Department of Juvenile Justice ~~Juvenile Division~~ under Section 5-8-6, the Department of Juvenile Justice ~~Corrections~~ shall, within 30 days of the date that the minor reaches the age of 17, send formal notification to the sentencing court and the State's Attorney of the county from which the

minor was sentenced indicating the day upon which the minor offender will achieve the age of 17. Within 90 days of receipt of that notice, the sentencing court shall conduct a hearing, pursuant to the provisions of subsection (c) of this Section to determine whether or not the minor shall continue to remain under the auspices of the Department of Juvenile Justice ~~Juvenile Division~~ or be transferred to the Adult Division of the Department of Corrections.

The minor shall be served with notice of the date of the hearing, shall be present at the hearing, and has the right to counsel at the hearing. The minor, with the consent of his or her counsel or guardian may waive his presence at hearing.

(b) Unless sooner paroled under Section 3-3-3, the confinement of a minor person committed for an indeterminate sentence in a criminal proceeding shall terminate at the expiration of the maximum term of imprisonment, and he shall thereupon be released to serve a period of parole under Section 5-8-1, but if the maximum term of imprisonment does not expire until after his 21st birthday, he shall continue to be subject to the control and custody of the Department of Juvenile Justice, and on his 21st birthday, he shall be transferred to the Adult Division of the Department of Corrections. If such person is on parole on his 21st birthday, his parole supervision may be transferred to the Adult Division of the Department of Corrections.

(c) Any interdivisional transfer hearing conducted pursuant to subsection (a) of this Section shall consider all available information which may bear upon the issue of transfer. All evidence helpful to the court in determining the question of transfer, including oral and written reports containing hearsay, may be relied upon to the extent of its probative value, even though not competent for the purposes of an adjudicatory hearing. The court shall consider, along with any other relevant matter, the following:

1. The nature of the offense for which the minor was found guilty and the length of the sentence the minor has to serve and the record and previous history of the minor.

2. The record of the minor's adjustment within the Department of Juvenile Justice ~~Corrections'~~ ~~Juvenile Division~~, including, but not limited to, reports from the minor's counselor, any escapes, attempted escapes or violent or disruptive conduct on the part of the minor, any tickets received by the minor, summaries of classes attended by the minor, and any record of work performed by the minor while in the institution.

3. The relative maturity of the minor based upon the physical, psychological and emotional development of the minor.

4. The record of the rehabilitative progress of the minor and an assessment of the vocational potential of the minor.

5. An assessment of the necessity for transfer of the minor, including, but not limited to, the availability of space within the Department of Corrections, the disciplinary and security problem which the minor has presented to the Department of Juvenile Justice ~~Juvenile Division~~ and the practicability of maintaining the minor in a juvenile facility, whether resources have been exhausted within the Department of Juvenile Justice ~~Juvenile Division~~ ~~of the Department of Corrections~~, the availability of rehabilitative and vocational programs within the Department of Corrections, and the anticipated ability of the minor to adjust to confinement within an adult institution based upon the minor's physical size and maturity.

All relevant factors considered under this subsection need not be resolved against the juvenile in order to justify such transfer. Access to social records, probation reports or any other reports which are considered by the court for the purpose of transfer shall be made available to counsel for the juvenile at least 30 days prior to the date of the transfer hearing. The Sentencing Court, upon granting a transfer order, shall accompany such order with a statement of reasons.

(d) Whenever the Director of Juvenile Justice or his designee determines that the interests of safety, security and discipline require the transfer to the Department of Corrections ~~Adult Division~~ of a person 17 years or older who was prosecuted under the provisions of the Criminal Code of 1961, as amended, and sentenced under the provisions of this Act pursuant to Section 2-7 of the Juvenile Court Act or Section 5-805 of the Juvenile Court Act of 1987 and committed to the Department of Juvenile Justice ~~Juvenile Division~~ under Section 5-8-6, the Director or his designee may authorize the emergency transfer of such person, unless the transfer of the person is governed by subsection (e) of this Section. The sentencing court shall be provided notice of any emergency transfer no later than 3 days after the emergency transfer. Upon motion brought within 60 days of the emergency transfer by the sentencing court or any party, the sentencing court may conduct a hearing pursuant to the provisions of subsection (c) of this Section in order to determine whether the person shall remain confined in the Department of Corrections ~~Adult Division~~.

(e) The Director of Juvenile Justice or his designee may authorize the permanent transfer to the Department of Corrections ~~Adult Division~~ of any person 18 years or older who was prosecuted under the

provisions of the Criminal Code of 1961, as amended, and sentenced under the provisions of this Act pursuant to Section 2-7 of the Juvenile Court Act or Section 5-805 of the Juvenile Court Act of 1987 and committed to the ~~Department of Juvenile Justice Juvenile Division~~ under Section 5-8-6 of this Act. The Director of Juvenile Justice or his designee shall be governed by the following factors in determining whether to authorize the permanent transfer of the person to the ~~Department of Corrections Adult Division~~:

1. The nature of the offense for which the person was found guilty and the length of the sentence the person has to serve and the record and previous history of the person.
2. The record of the person's adjustment within the ~~Department of Juvenile Justice Department of Corrections' Juvenile Division~~, including, but not limited to, reports from the person's counselor, any escapes, attempted escapes or violent or disruptive conduct on the part of the person, any tickets received by the person, summaries of classes attended by the person, and any record of work performed by the person while in the institution.
3. The relative maturity of the person based upon the physical, psychological and emotional development of the person.
4. The record of the rehabilitative progress of the person and an assessment of the vocational potential of the person.
5. An assessment of the necessity for transfer of the person, including, but not limited to, the availability of space within the Department of Corrections, the disciplinary and security problem which the person has presented to the ~~Department of Juvenile Justice Juvenile Division~~ and the practicability of maintaining the person in a juvenile facility, whether resources have been exhausted within the ~~Department of Juvenile Justice Juvenile Division of the Department of Corrections~~, the availability of rehabilitative and vocational programs within the Department of Corrections, and the anticipated ability of the person to adjust to confinement within an adult institution based upon the person's physical size and maturity.

(Source: P.A. 90-590, eff. 1-1-99.)

(730 ILCS 5/3-10-8) (from Ch. 38, par. 1003-10-8)

Sec. 3-10-8. Discipline.) (a) (1) Corporal punishment and disciplinary restrictions on diet, medical or sanitary facilities, clothing, bedding or mail are prohibited, as are reductions in the frequency of use of toilets, washbowls and showers.

(2) Disciplinary restrictions on visitation, work, education or program assignments, the use of toilets, washbowls and showers shall be related as closely as practicable to abuse of such privileges or facilities. This paragraph shall not apply to segregation or isolation of persons for purposes of institutional control.

(3) No person committed to the ~~Department of Juvenile Justice Juvenile Division~~ may be isolated for disciplinary reasons for more than 7 consecutive days nor more than 15 days out of any 30 day period except in cases of violence or attempted violence committed against another person or property when an additional period of isolation for disciplinary reasons is approved by the chief administrative officer. A person who has been isolated for 24 hours or more shall be interviewed daily by his staff counselor or other staff member.

(b) The ~~Department of Juvenile Justice Juvenile Division~~ shall establish rules and regulations governing disciplinary practices, the penalties for violation thereof, and the disciplinary procedure by which such penalties may be imposed. The rules of behavior shall be made known to each committed person, and the discipline shall be suited to the infraction and fairly applied.

(c) All disciplinary action imposed upon persons in institutions and facilities of the ~~Department of Juvenile Justice Juvenile Division~~ shall be consistent with this Section and Department rules and regulations adopted hereunder.

(d) Disciplinary action imposed under this Section shall be reviewed by the grievance procedure under Section 3-8-8.

(e) A written report of any infraction for which discipline is imposed shall be filed with the chief administrative officer within 72 hours of the occurrence of the infraction or the discovery of it and such report shall be placed in the file of the institution or facility.

(f) All institutions and facilities of the ~~Department of Juvenile Justice Juvenile Division~~ shall establish, subject to the approval of the Director of Juvenile Justice, procedures for disciplinary cases except those that may involve the imposition of disciplinary isolation; delay in referral to the Parole and Pardon Board or a change in work, education or other program assignment of more than 7 days duration.

(g) In disciplinary cases which may involve the imposition of disciplinary isolation, delay in referral to the Parole and Pardon Board, or a change in work, education or other program assignment of more than 7 days duration, the Director shall establish disciplinary procedures consistent with the following principles:

(1) Any person or persons who initiate a disciplinary charge against a person shall not decide the charge. To the extent possible, a person representing the counseling staff of the institution or facility shall participate in deciding the disciplinary case.

(2) Any committed person charged with a violation of Department rules of behavior shall be given notice of the charge including a statement of the misconduct alleged and of the rules this conduct is alleged to violate.

(3) Any person charged with a violation of rules is entitled to a hearing on that charge at which time he shall have an opportunity to appear before and address the person or persons deciding the charge.

(4) The person or persons deciding the charge may also summon to testify any witnesses or other persons with relevant knowledge of the incident. The person charged may be permitted to question any person so summoned.

(5) If the charge is sustained, the person charged is entitled to a written statement of the decision by the persons deciding the charge which shall include the basis for the decision and the disciplinary action, if any, to be imposed.

(6) A change in work, education, or other program assignment shall not be used for disciplinary purposes except as provided in paragraph (a) of the Section and then only after review and approval under Section 3-10-3.

(Source: P.A. 80-1099.)

(730 ILCS 5/3-10-9) (from Ch. 38, par. 1003-10-9)

Sec. 3-10-9. Grievances.

The procedures for grievances of the Department of Juvenile Justice ~~Juvenile Division~~ shall be governed under Section 3-8-8.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-10-10) (from Ch. 38, par. 1003-10-10)

Sec. 3-10-10. Assistance to Committed Persons.

A person committed to the Department of Juvenile Justice ~~Juvenile Division~~ shall be furnished with staff assistance in the exercise of any rights and privileges granted him under this Code. Such person shall be informed of his right to assistance by his staff counselor or other staff member.

(Source: P.A. 77-2097.)

(730 ILCS 5/3-10-11) (from Ch. 38, par. 1003-10-11)

Sec. 3-10-11. Transfers from Department of Children and Family Services.

(a) If (i) a minor 10 years of age or older is adjudicated a delinquent under the Juvenile Court Act or the Juvenile Court Act of 1987 and placed with the Department of Children and Family Services, (ii) it is determined by an interagency review committee that the Department of Children and Family Services lacks adequate facilities to care for and rehabilitate such minor and that placement of such minor with the Department of Juvenile Justice ~~Corrections~~, subject to certification by the Department of Juvenile Justice ~~Corrections~~, is appropriate, and (iii) the Department of Juvenile Justice ~~Corrections~~ certifies that it has suitable facilities and personnel available for the confinement of the minor, the Department of Children and Family Services may transfer custody of the minor to the Department of Juvenile Justice ~~Juvenile Division of the Department of Corrections~~ provided that:

- (1) the juvenile court that adjudicated the minor a delinquent orders the transfer after a hearing with opportunity to the minor to be heard and defend; and
- (2) the ~~Assistant~~ Director of Juvenile Justice ~~the Department of Corrections, Juvenile Division~~, is made a party to the action; and
- (3) notice of such transfer is given to the minor's parent, guardian or nearest relative; and
- (4) a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent.

The interagency review committee shall include a representative from the Department of Children and Family Services, a representative from the Department of Juvenile Justice ~~Corrections~~, and an educator and a qualified mental health professional jointly selected by the Department of Children and Family Services and the Department of Juvenile Justice ~~Corrections~~. The Department of Children and Family Services, in consultation with the Department of Juvenile Justice ~~Corrections~~, shall promulgate rules governing the operation of the interagency review committee pursuant to the Illinois Administrative Procedure Act.

(b) Guardianship of a minor transferred under this Section shall remain with the Department of Children and Family Services.

(c) Minors transferred under this Section may be placed by the Department of Juvenile Justice ~~Corrections~~ in any program or facility of the Department of Juvenile Justice ~~Corrections, Juvenile~~

~~Division~~, or any juvenile residential facility.

(d) A minor transferred under this Section shall remain in the custody of the Department of ~~Juvenile Justice Corrections, Juvenile Division~~ until the Department of ~~Juvenile Justice Corrections~~ determines that the minor is ready to leave its program. The Department of ~~Juvenile Justice Corrections~~ in consultation with the Department of Children and Family Services shall develop a transition plan and cooperate with the Department of Children and Family Services to move the minor to an alternate program. Thirty days before implementing the transition plan, the Department of ~~Juvenile Justice Corrections~~ shall provide the court with notice of the plan. The Department of ~~Juvenile Justice's Corrections'~~ custodianship of the minor shall automatically terminate 30 days after notice is provided to the court and the State's Attorney.

(e) In no event shall a minor transferred under this Section remain in the custody of the Department of ~~Juvenile Justice Corrections~~ for a period of time in excess of that period for which an adult could be committed for the same act.

(Source: P.A. 88-680, eff. 1-1-95.)

(730 ILCS 5/3-10-12) (from Ch. 38, par. 1003-10-12)

Sec. 3-10-12.

The Director of the Department of ~~Juvenile Justice Corrections~~ may authorize the use of any institution or facility of the ~~Department of Juvenile Justice Juvenile Division~~ as a Juvenile Detention Facility for the confinement of minors under 16 years of age in the custody or detained by the Sheriff of any County or the police department of any city when said juvenile is being held for appearance before a Juvenile Court or by Order of Court or for other legal reason, when there is no Juvenile Detention facility available or there are no other arrangements suitable for the confinement of juveniles. The Director of ~~Juvenile Justice the Department of Corrections~~ may certify that suitable facilities and personnel are available at the appropriate institution or facility for the confinement of such minors and this certification shall be filed with the Clerk of the Circuit Court of the County. The Director of ~~Juvenile Justice the Department of Corrections~~ may withdraw or withhold certification at any time. Upon the filing of the certificate in a county the authorities of the county may then use those facilities and set forth in the certificate under the terms and conditions therein for the above purpose. Juveniles confined, by the Department of ~~Juvenile Justice Corrections~~, under this Section, must be kept separate from adjudicated delinquents.

(Source: P.A. 78-878.)

(730 ILCS 5/3-10-13)

Sec. 3-10-13. Notifications of Release or Escape.

(a) The Department of ~~Juvenile Justice~~ shall establish procedures to provide written notification of the release of any person from the ~~Department of Juvenile Justice Juvenile Division~~ to the persons and agencies specified in subsection (c) of Section 3-14-1 of this Code.

(b) The Department of ~~Juvenile Justice~~ shall establish procedures to provide immediate notification of the escape of any person from the ~~Department of Juvenile Justice Juvenile Division~~ to the persons and agencies specified in subsection (c) of Section 3-14-1 of this Code.

(Source: P.A. 91-695, eff. 4-13-00.)

(730 ILCS 5/3-16-5)

Sec. 3-16-5. Multi-year pilot program for selected paroled youth released from institutions of the Juvenile Division.

(a) The Department of ~~Juvenile Justice Corrections~~ may establish in Cook County, DuPage County, Lake County, Will County, and Kane County a 6 year pilot program for selected youthful offenders released to parole by the ~~Department of Juvenile Justice Juvenile Division of the Department of Corrections~~.

(b) A person who is being released to parole from the ~~Department of Juvenile Justice Juvenile Division~~ under subsection (e) of Section 3-3-3 whom the ~~Department of Juvenile Justice Juvenile Division~~ deems a serious or at risk delinquent youth who is likely to have difficulty re-adjusting to the community, who has had either significant clinical problems or a history of criminal activity related to sex offenses, drugs, weapons, or gangs, and who is returning to Cook County, Will County, Lake County, DuPage County, or Kane County may be screened for eligibility to participate in the pilot program.

(c) If the Department of ~~Juvenile Justice~~ establishes a pilot program under this Section, the Department of ~~Juvenile Justice Juvenile Division~~ shall provide supervision and structured services to persons selected to participate in the program to: (i) ensure that they receive high levels of supervision and case managed, structured services; (ii) prepare them for re-integration into the community; (iii) effectively monitor their compliance with parole requirements and programming; and (iv) minimize the

likelihood that they will commit additional offenses.

(d) Based upon the needs of a participant, the Department of Juvenile Justice may provide any or all of the following to a participant:

- (1) Risk and needs assessment;
- (2) Comprehensive case management;
- (3) Placement in licensed secured community facilities as a transitional measure;
- (4) Transition to residential programming;
- (5) Targeted intensive outpatient treatment services;
- (6) Structured day and evening reporting programs and behavioral day treatment;
- (7) Family counseling;
- (8) Transitional programs to independent living;
- (9) Alternative placements;
- (10) Substance abuse treatment.

(e) A needs assessment case plan and parole supervision profile may be completed by the Department of Juvenile Justice ~~Corrections~~ before the selected eligible person's release from institutional custody to parole supervision. The needs assessment case plan and parole supervision profile shall include identification of placement requirements, intensity of parole supervision, and assessments of educational, psychological, vocational, medical, and substance abuse treatment needs. Following the completion by the Department of Juvenile Justice ~~Corrections~~ of the parole supervision profile and needs assessment case plan, a comprehensive parole case management plan shall be developed for each committed youth eligible and selected for admission to the pilot program. The comprehensive parole case management plan shall be submitted for approval by the Department of Juvenile Justice and for presentation to the Prisoner Review Board.

(f) The Department of Juvenile Justice may identify in a comprehensive parole case management plan any special conditions for parole supervision and establish sanctions for a participant who fails to comply with the program requirements or who violates parole rules. These sanctions may include the return of a participant to a secure community placement or recommendations for parole revocation to the Prisoner Review Board. Paroled youth may be held for investigation in secure community facilities or on warrant pending revocation in local detention or jail facilities based on age.

(g) The Department of Juvenile Justice may select and contract with a community-based network and work in partnership with private providers to provide the services specified in subsection (d).

(h) If the Department of Juvenile Justice establishes a pilot program under this Section, the Department of Juvenile Justice shall, in the 3 years following the effective date of this amendatory Act of 1997, first implement the pilot program in Cook County and then implement the pilot program in DuPage County, Lake County, Will County, and Kane County in accordance with a schedule to be developed by the Department of Juvenile Justice.

(i) If the Department of Juvenile Justice establishes a pilot program under this Section, the Department of Juvenile Justice shall establish a 3 year follow-up evaluation and outcome assessment for all participants in the pilot program.

(j) If the Department of Juvenile Justice establishes a pilot program under this Section, the Department of Juvenile Justice shall publish an outcome study covering a 3 year follow-up period for participants in the pilot program.

(Source: P.A. 90-79, eff. 1-1-98.)

(730 ILCS 5/5-8-6) (from Ch. 38, par. 1005-8-6)

Sec. 5-8-6. Place of Confinement. (a) Offenders sentenced to a term of imprisonment for a felony shall be committed to the penitentiary system of the Department of Corrections. However, such sentence shall not limit the powers of the Department of Children and Family Services in relation to any child under the age of one year in the sole custody of a person so sentenced, nor in relation to any child delivered by a female so sentenced while she is so confined as a consequence of such sentence. A person sentenced for a felony may be assigned by the Department of Corrections to any of its institutions, facilities or programs.

(b) Offenders sentenced to a term of imprisonment for less than one year shall be committed to the custody of the sheriff. A person committed to the Department of Corrections, prior to July 14, 1983, for less than one year may be assigned by the Department to any of its institutions, facilities or programs.

(c) All offenders under 17 years of age when sentenced to imprisonment shall be committed to the Department of Juvenile Justice ~~Juvenile Division of the Department of Corrections~~ and the court in its order of commitment shall set a definite term. Such order of commitment shall be the sentence of the court which may be amended by the court while jurisdiction is retained; and such sentence shall apply whenever the offender sentenced is in the control and custody of the ~~Adult Division of the Department~~

of Corrections. The provisions of Section 3-3-3 shall be a part of such commitment as fully as though written in the order of commitment. The committing court shall retain jurisdiction of the subject matter and the person until he or she reaches the age of 21 unless earlier discharged. However, the Department of Juvenile Justice ~~Juvenile Division of the Department of Corrections~~ shall, after a juvenile has reached 17 years of age, petition the court to conduct a hearing pursuant to subsection (c) of Section 3-10-7 of this Code.

(d) No defendant shall be committed to the Department of Corrections for the recovery of a fine or costs.

(e) When a court sentences a defendant to a term of imprisonment concurrent with a previous and unexpired sentence of imprisonment imposed by any district court of the United States, it may commit the offender to the custody of the Attorney General of the United States. The Attorney General of the United States, or the authorized representative of the Attorney General of the United States, shall be furnished with the warrant of commitment from the court imposing sentence, which warrant of commitment shall provide that, when the offender is released from federal confinement, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing county to the Department of Corrections. The court shall cause the Department to be notified of such sentence at the time of commitment and to be provided with copies of all records regarding the sentence. (Source: P.A. 83-1362.)

Section 30. The Probation and Probation Officers Act is amended by changing Section 15 as follows: (730 ILCS 110/15) (from Ch. 38, par. 204-7)

Sec. 15. (1) The Supreme Court of Illinois may establish a Division of Probation Services whose purpose shall be the development, establishment, promulgation, and enforcement of uniform standards for probation services in this State, and to otherwise carry out the intent of this Act. The Division may:

- (a) establish qualifications for chief probation officers and other probation and court services personnel as to hiring, promotion, and training.
- (b) make available, on a timely basis, lists of those applicants whose qualifications meet the regulations referred to herein, including on said lists all candidates found qualified.
- (c) establish a means of verifying the conditions for reimbursement under this Act and develop criteria for approved costs for reimbursement.
- (d) develop standards and approve employee compensation schedules for probation and court services departments.
- (e) employ sufficient personnel in the Division to carry out the functions of the Division.
- (f) establish a system of training and establish standards for personnel orientation and training.
- (g) develop standards for a system of record keeping for cases and programs, gather statistics, establish a system of uniform forms, and develop research for planning of Probation Services.
- (h) develop standards to assure adequate support personnel, office space, equipment and supplies, travel expenses, and other essential items necessary for Probation and Court Services Departments to carry out their duties.
- (i) review and approve annual plans submitted by Probation and Court Services Departments.
- (j) monitor and evaluate all programs operated by Probation and Court Services Departments, and may include in the program evaluation criteria such factors as the percentage of Probation sentences for felons convicted of Probationable offenses.
- (k) seek the cooperation of local and State government and private agencies to improve the quality of probation and court services.
- (l) where appropriate, establish programs and corresponding standards designed to generally improve the quality of probation and court services and reduce the rate of adult or juvenile offenders committed to the Department of Corrections.
- (m) establish such other standards and regulations and do all acts necessary to carry out the intent and purposes of this Act.

The Division shall establish a model list of structured intermediate sanctions that may be imposed by a probation agency for violations of terms and conditions of a sentence of probation, conditional discharge, or supervision.

The State of Illinois shall provide for the costs of personnel, travel, equipment, telecommunications, postage, commodities, printing, space, contractual services and other related costs necessary to carry out

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the intent of this Act.

(2) (a) The chief judge of each circuit shall provide full-time probation services for all counties within the circuit, in a manner consistent with the annual probation plan, the standards, policies, and regulations established by the Supreme Court. A probation district of two or more counties within a circuit may be created for the purposes of providing full-time probation services. Every county or group of counties within a circuit shall maintain a probation department which shall be under the authority of the Chief Judge of the circuit or some other judge designated by the Chief Judge. The Chief Judge, through the Probation and Court Services Department shall submit annual plans to the Division for probation and related services.

(b) The Chief Judge of each circuit shall appoint the Chief Probation Officer and all other probation officers for his or her circuit from lists of qualified applicants supplied by the Supreme Court. Candidates for chief managing officer and other probation officer positions must apply with both the Chief Judge of the circuit and the Supreme Court.

(3) A Probation and Court Service Department shall apply to the Supreme Court for funds for basic services, and may apply for funds for new and expanded programs or Individualized Services and Programs. Costs shall be reimbursed monthly based on a plan and budget approved by the Supreme Court. No Department may be reimbursed for costs which exceed or are not provided for in the approved annual plan and budget. After the effective date of this amendatory Act of 1985, each county must provide basic services in accordance with the annual plan and standards created by the division. No department may receive funds for new or expanded programs or individualized services and programs unless they are in compliance with standards as enumerated in paragraph (h) of subsection (1) of this Section, the annual plan, and standards for basic services.

(4) The Division shall reimburse the county or counties for probation services as follows:

(a) 100% of the salary of all chief managing officers designated as such by the Chief Judge and the division.

(b) 100% of the salary for all probation officer and supervisor positions approved for reimbursement by the division after April 1, 1984, to meet workload standards and to implement intensive sanction and probation supervision programs and other basic services as defined in this Act.

(c) 100% of the salary for all secure detention personnel and non-secure group home personnel approved for reimbursement after December 1, 1990. For all such positions approved for reimbursement before December 1, 1990, the counties shall be reimbursed \$1,250 per month beginning July 1, 1995, and an additional \$250 per month beginning each July 1st thereafter until the positions receive 100% salary reimbursement. Allocation of such positions will be based on comparative need considering capacity, staff/resident ratio, physical plant and program.

(d) \$1,000 per month for salaries for the remaining probation officer positions engaged in basic services and new or expanded services. All such positions shall be approved by the division in accordance with this Act and division standards.

(e) 100% of the travel expenses in accordance with Division standards for all Probation positions approved under paragraph (b) of subsection 4 of this Section.

(f) If the amount of funds reimbursed to the county under paragraphs (a) through (e) of subsection 4 of this Section on an annual basis is less than the amount the county had received during the 12 month period immediately prior to the effective date of this amendatory Act of 1985, then the Division shall reimburse the amount of the difference to the county. The effect of paragraph (b) of subsection 7 of this Section shall be considered in implementing this supplemental reimbursement provision.

(5) The Division shall provide funds beginning on April 1, 1987 for the counties to provide Individualized Services and Programs as provided in Section 16 of this Act.

(6) A Probation and Court Services Department in order to be eligible for the reimbursement must submit to the Supreme Court an application containing such information and in such a form and by such dates as the Supreme Court may require. Departments to be eligible for funding must satisfy the following conditions:

(a) The Department shall have on file with the Supreme Court an annual Probation plan for continuing, improved, and new Probation and Court Services Programs approved by the Supreme Court or its designee. This plan shall indicate the manner in which Probation and Court Services will be delivered and improved, consistent with the minimum standards and regulations for Probation and Court Services, as established by the Supreme Court. In counties with more than one Probation and Court Services Department eligible to receive funds, all Departments within that county must submit plans which are approved by the Supreme Court.

(b) The annual probation plan shall seek to generally improve the quality of probation

services and to reduce the commitment of adult and juvenile offenders to the Department of Corrections and shall require, when appropriate, coordination with the Department of Corrections and the Department of Children and Family Services in the development and use of community resources, information systems, case review and permanency planning systems to avoid the duplication of services.

(c) The Department shall be in compliance with standards developed by the Supreme Court for basic, new and expanded services, training, personnel hiring and promotion.

(d) The Department shall in its annual plan indicate the manner in which it will support the rights of crime victims and in which manner it will implement Article I, Section 8.1 of the Illinois Constitution and in what manner it will coordinate crime victims' support services with other criminal justice agencies within its jurisdiction, including but not limited to, the State's Attorney, the Sheriff and any municipal police department.

(e) County probation departments or probation districts that seek reimbursement for administrative responsibility for detention institutions for youth, aged 13 through 16, must provide verification of appropriate screening of each youth prior to admission to detention, as well as on-going and frequent review with appropriate step-down procedures to ensure that detention is utilized only as a last resort and for as short a duration as possible.

(7) No statement shall be verified by the Supreme Court or its designee or vouchered by the Comptroller unless each of the following conditions have been met:

(a) The probation officer is a full-time employee appointed by the Chief Judge to provide probation services.

(b) The probation officer, in order to be eligible for State reimbursement, is receiving a salary of at least \$17,000 per year.

(c) The probation officer is appointed or was reappointed in accordance with minimum qualifications or criteria established by the Supreme Court; however, all probation officers appointed prior to January 1, 1978, shall be exempted from the minimum requirements established by the Supreme Court. Payments shall be made to counties employing these exempted probation officers as long as they are employed in the position held on the effective date of this amendatory Act of 1985. Promotions shall be governed by minimum qualifications established by the Supreme Court.

(d) The Department has an established compensation schedule approved by the Supreme Court. The compensation schedule shall include salary ranges with necessary increments to compensate each employee. The increments shall, within the salary ranges, be based on such factors as bona fide occupational qualifications, performance, and length of service. Each position in the Department shall be placed on the compensation schedule according to job duties and responsibilities of such position. The policy and procedures of the compensation schedule shall be made available to each employee.

(8) In order to obtain full reimbursement of all approved costs, each Department must continue to employ at least the same number of probation officers and probation managers as were authorized for employment for the fiscal year which includes January 1, 1985. This number shall be designated as the base amount of the Department. No positions approved by the Division under paragraph (b) of subsection 4 will be included in the base amount. In the event that the Department employs fewer Probation officers and Probation managers than the base amount for a period of 90 days, funding received by the Department under subsection 4 of this Section may be reduced on a monthly basis by the amount of the current salaries of any positions below the base amount.

(9) Before the 15th day of each month, the treasurer of any county which has a Probation and Court Services Department, or the treasurer of the most populous county, in the case of a Probation or Court Services Department funded by more than one county, shall submit an itemized statement of all approved costs incurred in the delivery of Basic Probation and Court Services under this Act to the Supreme Court. The treasurer may also submit an itemized statement of all approved costs incurred in the delivery of new and expanded Probation and Court Services as well as Individualized Services and Programs. The Supreme Court or its designee shall verify compliance with this Section and shall examine and audit the monthly statement and, upon finding them to be correct, shall forward them to the Comptroller for payment to the county treasurer. In the case of payment to a treasurer of a county which is the most populous of counties sharing the salary and expenses of a Probation and Court Services Department, the treasurer shall divide the money between the counties in a manner that reflects each county's share of the cost incurred by the Department.

(10) The county treasurer must certify that funds received under this Section shall be used solely to maintain and improve Probation and Court Services. The county or circuit shall remain in compliance with all standards, policies and regulations established by the Supreme Court. If at any time the Supreme

Court determines that a county or circuit is not in compliance, the Supreme Court shall immediately notify the Chief Judge, county board chairman and the Director of Court Services Chief Probation Officer. If after 90 days of written notice the noncompliance still exists, the Supreme Court shall be required to reduce the amount of monthly reimbursement by 10%. An additional 10% reduction of monthly reimbursement shall occur for each consecutive month of noncompliance. Except as provided in subsection 5 of Section 15, funding to counties shall commence on April 1, 1986. Funds received under this Act shall be used to provide for Probation Department expenses including those required under Section 13 of this Act. For State fiscal year 2004 only, the Mandatory Arbitration Fund may be used to provide for Probation Department expenses, including those required under Section 13 of this Act.

(11) The respective counties shall be responsible for capital and space costs, fringe benefits, clerical costs, equipment, telecommunications, postage, commodities and printing.

(12) For purposes of this Act only, probation officers shall be considered peace officers. In the exercise of their official duties, probation officers, sheriffs, and police officers may, anywhere within the State, arrest any probationer who is in violation of any of the conditions of his or her probation, conditional discharge, or supervision, and it shall be the duty of the officer making the arrest to take the probationer before the Court having jurisdiction over the probationer for further order.

(Source: P.A. 93-25, eff. 6-20-03; 93-576, eff. 1-1-04; revised 9-23-03.)

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.

On motion of Senator Cullerton, **House Bill No. 578** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 578 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 3-9005 as follows:

(55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

Sec. 3-9005. Powers and duties of State's attorney.

(a) The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in his county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance

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with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's attorney shall furnish such as soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to the officer who by law is entitled to the custody thereof.

(10) To notify, by first class mail, complaining witnesses of the ultimate disposition of the cases arising from an indictment or an information.

(11) To perform such other and further duties as may, from time to time, be enjoined on him by law.

(12) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

(b) The State's Attorney of each county shall have authority to appoint one or more special investigators to serve subpoenas, make return of process and conduct investigations which assist the State's Attorney in the performance of his duties. A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating his employment and in the performance of his assigned duties.

Subject to the qualifications set forth in this subsection, special investigators shall be peace officers and shall have all the powers possessed by investigators under the State's Attorneys Appellate Prosecutor's Act.

No special investigator employed by the State's Attorney shall have peace officer status or exercise police powers unless he or she successfully completes the basic police training course mandated and approved by the Illinois Law Enforcement Training Standards Board or such board waives the training requirement by reason of the special investigator's prior law enforcement experience or training or both. Any State's Attorney appointing a special investigator shall consult with all affected local police agencies, to the extent consistent with the public interest, if the special investigator is assigned to areas within that agency's jurisdiction.

Before a person is appointed as a special investigator, his fingerprints shall be taken and transmitted to the Department of State Police. The Department shall examine its records and submit to the State's Attorney of the county in which the investigator seeks appointment any conviction information concerning the person on file with the Department. No person shall be appointed as a special investigator if he has been convicted of a felony or other offense involving moral turpitude. A special investigator shall be paid a salary and be reimbursed for actual expenses incurred in performing his assigned duties. The county board shall approve the salary and actual expenses and appropriate the salary and expenses in the manner prescribed by law or ordinance.

(c) The State's Attorney may request and receive from employers, labor unions, telephone companies, and utility companies location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this subsection, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member.

(d) For each State fiscal year, the State's Attorney of Cook County shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing assistance in the prosecution of capital cases in Cook County and for the purpose of providing assistance to the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The State's Attorney may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under Section 17-1a of the Criminal Code of 1961 against persons who have issued to the Department checks or other orders in violation of the provisions of paragraph (d) of subsection (B) of Section 17-1 of the Criminal Code of 1961, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and costs collected under Section 17-1a of the Criminal Code of 1961 to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.

(Source: P.A. 91-589, eff. 1-1-00; 92-492, eff. 1-1-02.)

Section 10. The Code of Criminal Procedure of 1963 is amended by changing Section 122-1 as follows:

(725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

Sec. 122-1. Petition in the trial court.

(a) Any person imprisoned in the penitentiary may institute a proceeding under this Article if the person asserts that:

(1) in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both; or

(2) the death penalty was imposed and there is newly discovered evidence not available to the person at the time of the proceeding that resulted in his or her conviction that establishes a substantial basis to believe that the defendant is actually innocent by clear and convincing evidence.

(a-5) A proceeding under paragraph (2) of subsection (a) may be commenced within a reasonable period of time after the person's conviction notwithstanding any other provisions of this Article. In such a proceeding regarding actual innocence, if the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

(b) The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place a petition (together with a copy thereof) verified by affidavit. Petitioner shall also serve another copy upon the State's Attorney by any of the methods provided in Rule 7 of the Supreme Court. The clerk shall docket the petition for consideration by the court pursuant to Section 122-2.1 upon his or her receipt thereof and bring the same promptly to the attention of the court.

(c) Except as otherwise provided in subsection (a-5), if the petitioner is under sentence of death and a petition for writ of certiorari is filed, no proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court denial of a petition for certiorari to the United States Supreme Court on direct appeal, or more than 6 months from the date for filing such a petition if none is filed, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

When a defendant has a sentence other than death, no proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court denial of the Petition for Leave to Appeal to the Illinois Supreme Court, or more than 6 months from the date for filing such a petition if none is filed, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a defendant does not file a direct appeal, the post-conviction petition shall be filed no later than 3 years from the date of conviction, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

This limitation does not apply to a petition advancing a claim of actual innocence.

(d) A person seeking relief by filing a petition under this Section must specify in the petition or its heading that it is filed under this Section. A trial court that has received a petition complaining of a conviction or sentence that fails to specify in the petition or its heading that it is filed under this Section need not evaluate the petition to determine whether it could otherwise have stated some grounds for relief under this Article.

(e) A proceeding under this Article may not be commenced on behalf of a defendant who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim.

(f) Only one petition may be filed by a petitioner under this Article without leave of the court. Leave of court may be granted only if a petitioner demonstrates cause for his or her failure to bring the claim in his or her initial post-conviction proceedings and prejudice results from that failure. For purposes of this subsection (f): (1) a prisoner shows cause by identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings; and (2) a prisoner shows prejudice by demonstrating that the claim not raised during his or her initial post-conviction proceedings so infected the trial that the resulting conviction or sentence violated due process.

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(Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03; revised 12-9-03.)

Section 15. The State Appellate Defender Act is amended by changing Section 10 as follows:
(725 ILCS 105/10) (from Ch. 38, par. 208-10)

Sec. 10. Powers and duties of State Appellate Defender.

(a) The State Appellate Defender shall represent indigent persons on appeal in criminal and delinquent minor proceedings, when appointed to do so by a court under a Supreme Court Rule or law of this State.

(b) The State Appellate Defender shall submit a budget for the approval of the State Appellate Defender Commission.

(c) The State Appellate Defender may:

(1) maintain a panel of private attorneys available to serve as counsel on a case basis;

(2) establish programs, alone or in conjunction with law schools, for the purpose of utilizing volunteer law students as legal assistants;

(3) cooperate and consult with state agencies, professional associations, and other groups concerning the causes of criminal conduct, the rehabilitation and correction of persons charged with and convicted of crime, the administration of criminal justice, and, in counties of less than 1,000,000 population, study, design, develop and implement model systems for the delivery of trial level defender services, and make an annual report to the General Assembly;

(4) provide investigative services to appointed counsel and county public defenders;

(5) in cases in which a death sentence is an authorized disposition, provide trial

counsel with the assistance of expert witnesses, investigators, and mitigation specialists from funds appropriated to the State Appellate Defender specifically for that purpose by the General Assembly. The Office of State Appellate Defender shall not be appointed to serve as trial counsel in capital cases.

(d) For each State fiscal year, the State Appellate Defender shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing defense assistance in capital cases outside of Cook County and for expenses incurred by the the State Appellate Defender in representing petitioners in capital cases in post-conviction proceedings under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases and for the representation of those petitioners by attorneys approved by or contracted with the State Appellate Defender. The State Appellate Defender may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

(e) 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 Research Unit, 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.

(Source: P.A. 91-589, eff. 1-1-00.)

Section 20. The Capital Crimes Litigation Act is amended by changing Section 15 as follows:
(725 ILCS 124/15)

Sec. 15. Capital Litigation Trust Fund.

(a) The Capital Litigation Trust Fund is created as a special fund in the State Treasury. The Trust Fund shall be administered by the State Treasurer to provide moneys for the appropriations to be made, grants to be awarded, and compensation and expenses to be paid under this Act. All interest earned from the investment or deposit of moneys accumulated in the Trust Fund shall, under Section 4.1 of the State Finance Act, be deposited into the Trust Fund.

(b) Moneys deposited into the Trust Fund shall not be considered general revenue of the State of Illinois.

(c) Moneys deposited into the Trust Fund shall be used exclusively for the purposes of providing funding for the prosecution and defense of capital cases and for providing funding for post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases as provided in this Act and shall not be appropriated, loaned, or in any manner transferred to the General Revenue Fund of the State of Illinois.

(d) Every fiscal year the State Treasurer shall transfer from the General Revenue Fund to the Capital Litigation Trust Fund an amount equal to the full amount of moneys appropriated by the General Assembly (both by original and supplemental appropriation), less any unexpended balance from the

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previous fiscal year, from the Capital Litigation Trust Fund for the specific purpose of making funding available for the prosecution and defense of capital cases and for the litigation expenses associated with post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The Public Defender and State's Attorney in Cook County, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General shall make annual requests for appropriations from the Trust Fund.

(1) The Public Defender in Cook County shall request appropriations to the State

Treasurer for expenses incurred by the Public Defender and for funding for private appointed defense counsel in Cook County.

(2) The State's Attorney in Cook County shall request an appropriation to the State

Treasurer for expenses incurred by the State's Attorney.

(3) The State Appellate Defender shall request a direct appropriation from the Trust

Fund for expenses incurred by the State Appellate Defender in providing assistance to trial attorneys under item (c)(5) of Section 10 of the State Appellate Defender Act and for expenses incurred by the State Appellate Defender in representing petitioners in capital cases in post-conviction proceedings under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases and for the representation of those petitioners by attorneys approved by or contracted with the State Appellate Defender and an appropriation to the State Treasurer for payments from the Trust Fund for the defense of cases in counties other than Cook County.

(4) The State's Attorneys Appellate Prosecutor shall request a direct appropriation from the Trust Fund to pay expenses incurred by the State's Attorneys Appellate Prosecutor and an appropriation to the State Treasurer for payments from the Trust Fund for expenses incurred by State's Attorneys in counties other than Cook County.

(5) The Attorney General shall request a direct appropriation from the Trust Fund to pay expenses incurred by the Attorney General in assisting the State's Attorneys in counties other than Cook County and to pay for expenses incurred by the Attorney General when the Attorney General is ordered by the presiding judge of the Criminal Division of the Circuit Court of Cook County to prosecute or supervise the prosecution of Cook County cases and for expenses incurred by the Attorney General in representing the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases.

The Public Defender and State's Attorney in Cook County, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General may each request supplemental appropriations from the Trust Fund during the fiscal year.

(e) Moneys in the Trust Fund shall be expended only as follows:

(1) To pay the State Treasurer's costs to administer the Trust Fund. The amount for

this purpose may not exceed 5% in any one fiscal year of the amount otherwise appropriated from the Trust Fund in the same fiscal year.

(2) To pay the capital litigation expenses of trial defense and post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases including, but not limited

to, DNA testing, including DNA testing under Section 116-3 of the Code of Criminal Procedure of 1963, analysis, and expert testimony, investigatory and other assistance, expert, forensic, and other witnesses, and mitigation specialists, and grants and aid provided to public defenders, appellate defenders, and any attorney approved by or contracted with the State Appellate Defender representing petitioners in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases or assistance to attorneys who have been appointed by the court to represent defendants who are charged with capital crimes.

(3) To pay the compensation of trial attorneys, other than public defenders or appellate defenders, who have

been appointed by the court to represent defendants who are charged with capital crimes or attorneys approved by or contracted with the State Appellate Defender to represent petitioners in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases.

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(4) To provide State's Attorneys with funding for capital litigation expenses and for expenses of representing the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases

including, but not limited to, investigatory and other assistance and expert, forensic, and other witnesses necessary to prosecute capital cases. State's Attorneys in any county other than Cook County seeking funding for capital litigation expenses and for expenses of representing the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases including, but not limited to, investigatory and other assistance and expert, forensic, or other witnesses under this Section may request that the State's Attorneys Appellate Prosecutor or the Attorney General, as the case may be, certify the expenses as reasonable, necessary, and appropriate for payment from the Trust Fund, on a form created by the State Treasurer. Upon certification of the expenses and delivery of the certification to the State Treasurer, the Treasurer shall pay the expenses directly from the Capital Litigation Trust Fund if there are sufficient moneys in the Trust Fund to pay the expenses.

(5) To provide financial support through the Attorney General pursuant to the Attorney General Act for the several county State's Attorneys outside of Cook County, but shall not be used to increase personnel for the Attorney General's Office, except when the Attorney General is ordered by the presiding judge of the Criminal Division of the Circuit Court of Cook County to prosecute or supervise the prosecution of Cook County cases.

(6) To provide financial support through the State's Attorneys Appellate Prosecutor pursuant to the State's Attorneys Appellate Prosecutor's Act for the several county State's Attorneys outside of Cook County, but shall not be used to increase personnel for the State's Attorneys Appellate Prosecutor.

(7) To provide financial support to the State Appellate Defender pursuant to the State Appellate Defender Act.

Moneys expended from the Trust Fund shall be in addition to county funding for Public Defenders and State's Attorneys, and shall not be used to supplant or reduce ordinary and customary county funding.

(f) Moneys in the Trust Fund shall be appropriated to the State Appellate Defender, the State's Attorneys Appellate Prosecutor, the Attorney General, and the State Treasurer. The State Appellate Defender shall receive an appropriation from the Trust Fund to enable it to provide assistance to appointed defense counsel and attorneys approved by or contracted with the State Appellate Defender to represent petitioners in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases throughout the State and to Public Defenders in counties other than Cook. The State's Attorneys Appellate Prosecutor and the Attorney General shall receive appropriations from the Trust Fund to enable them to provide assistance to State's Attorneys in counties other than Cook County and when the Attorney General is ordered by the presiding judge of the Criminal Division of the Circuit Court of Cook County to prosecute or supervise the prosecution of Cook County cases. Moneys shall be appropriated to the State Treasurer to enable the Treasurer (i) to make grants to Cook County, (ii) to pay the expenses of Public Defenders, the State Appellate Defender, the Attorney General, the Office of the State's Attorneys Appellate Prosecutor, and State's Attorneys in counties other than Cook County, (iii) to pay the expenses and compensation of appointed defense counsel and attorneys approved by or contracted with the State Appellate Defender to represent petitioners in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases in counties other than Cook County, and (iv) to pay the costs of administering the Trust Fund. All expenditures and grants made from the Trust Fund shall be subject to audit by the Auditor General.

(g) For Cook County, grants from the Trust Fund shall be made and administered as follows:

(1) For each State fiscal year, the State's Attorney and Public Defender must each make a separate application to the State Treasurer for capital litigation grants.

(2) The State Treasurer shall establish rules and procedures for grant applications.

The rules shall require the Cook County Treasurer as the grant recipient to report on a periodic basis to the State Treasurer how much of the grant has been expended, how much of the grant is remaining, and the purposes for which the grant has been used. The rules may also require the Cook County Treasurer to certify on a periodic basis that expenditures of the funds have been made for expenses

that are reasonable, necessary, and appropriate for payment from the Trust Fund.

(3) The State Treasurer shall make the grants to the Cook County Treasurer as soon as possible after the beginning of the State fiscal year.

(4) The State's Attorney or Public Defender may apply for supplemental grants during the fiscal year.

(5) Grant moneys shall be paid to the Cook County Treasurer in block grants and held in separate accounts for the State's Attorney, the Public Defender, and court appointed defense counsel other than the Cook County Public Defender, respectively, for the designated fiscal year, and are not subject to county appropriation.

(6) Expenditure of grant moneys under this subsection (g) is subject to audit by the Auditor General.

(7) The Cook County Treasurer shall immediately make payment from the appropriate separate account in the county treasury for capital litigation expenses to the State's Attorney, Public Defender, or court appointed defense counsel other than the Public Defender, as the case may be, upon order of the State's Attorney, Public Defender or the court, respectively.

(h) If a defendant in a capital case in Cook County is represented by court appointed counsel other than the Cook County Public Defender, the appointed counsel shall petition the court for an order directing the Cook County Treasurer to pay the court appointed counsel's reasonable and necessary compensation and capital litigation expenses from grant moneys provided from the Trust Fund. These petitions shall be considered in camera. Orders denying petitions for compensation or expenses are final. Counsel may not petition for expenses that may have been provided or compensated by the State Appellate Defender under item (c)(5) of Section 10 of the State Appellate Defender Act.

(i) In counties other than Cook County, and when the Attorney General is ordered by the presiding judge of the Criminal Division of the Circuit Court of Cook County to prosecute or supervise the prosecution of Cook County cases, and excluding capital litigation expenses or services that may have been provided by the State Appellate Defender under item (c)(5) of Section 10 of the State Appellate Defender Act:

(1) Upon certification by the circuit court, on a form created by the State Treasurer, that all or a portion of the expenses are reasonable, necessary, and appropriate for payment from the Trust Fund and the court's delivery of the certification to the Treasurer, the Treasurer shall pay the certified expenses of Public Defenders and the State Appellate Defender from the money appropriated to the Treasurer for capital litigation expenses of Public Defenders and post-conviction proceeding expenses in capital cases of the State Appellate Defender and expenses in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases in any county other than Cook County, if there are sufficient moneys in the Trust Fund to pay the expenses.

(2) If a defendant in a capital case is represented by court appointed counsel other than the Public Defender, the appointed counsel shall petition the court to certify compensation and capital litigation expenses including, but not limited to, investigatory and other assistance, expert, forensic, and other witnesses, and mitigation specialists as reasonable, necessary, and appropriate for payment from the Trust Fund. If a petitioner in a capital case who has filed a petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963 or a petition under Section 2-1401 of the Code of Civil Procedure in relation to capital cases is represented by an attorney approved by or contracted with the State Appellate Defender other than the State Appellate Defender, that attorney shall petition the court to certify compensation and litigation expenses of post-conviction proceedings under Article 122 of the Code of Criminal Procedure of 1963 or in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. Upon certification on a form created by the State Treasurer of all or a portion of the compensation and expenses certified as reasonable, necessary, and appropriate for payment from the Trust Fund and the court's delivery of the certification to the Treasurer, the State Treasurer shall pay the certified compensation and expenses from the money appropriated to the Treasurer for that purpose, if there are sufficient moneys in the Trust Fund to make those payments.

(3) A petition for capital litigation expenses or post-conviction proceeding expenses or expenses incurred in filing a petition under Section 2-1401 of the Code of Civil Procedure in relation to capital cases under this subsection shall be

considered in camera. Orders denying petitions for compensation or expenses are final.

(j) If the Trust Fund is discontinued or dissolved by an Act of the General Assembly or by operation of law, any balance remaining in the Trust Fund shall be returned to the General Revenue Fund after deduction of administrative costs, any other provision of this Act to the contrary notwithstanding.

(Source: P.A. 93-127, eff. 1-1-04; 93-605, eff. 11-19-03; revised 12-9-03.)

[May 12, 2004]

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.

On motion of Senator Link, **House Bill No. 718** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 0718 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 7-310 as follows:

(625 ILCS 5/7-310) (from Ch. 95 1/2, par. 7-310)

Sec. 7-310. Petition for discharge filed in bankruptcy. A petition for discharge filed in bankruptcy following the rendering of any judgment shall relieve the judgment debtor from ~~any~~ of the requirements of this Chapter 7, except that the judgment debtor's drivers license shall remain suspended and may not be renewed, and the judgment debtor may not be issued a license or registration, until the judgment debtor gives proof of his or her financial responsibility in the future, as provided in Section 1-164.5. The proof is to be maintained by the judgment debtor, in a manner satisfactory to the Secretary of State, for a period of 3 years after the date on which the proof is first filed.

A petition for discharge filed in bankruptcy of the owner or lessee of a commercial vehicle by whom the judgment debtor is employed at the time of the motor vehicle accident that gives rise to the judgment also shall relieve the judgment debtor so employed from any of the requirements of this Chapter 7 if the discharge of the owner or lessee follows the rendering of the judgment and if the judgment debtor so employed was operating the commercial vehicle in connection with his regular employment or occupation at the time of the accident. This amendatory act of 1985 applies to all cases irrespective of whether the accident giving rise to the suspension of license or registration occurred before, on, or after its effective date.

(Source: P.A. 86-549; 87-1114.)"

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.

On motion of Senator Link, **House Bill No. 720** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 720 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 15-107, 15-111, 15-301, and 15-308.2 as follows:

(625 ILCS 5/15-107) (from Ch. 95 1/2, par. 15-107)

Sec. 15-107. Length of vehicles.

(a) The maximum length of a single vehicle on any highway of this State may not exceed 42 feet except the following:

(1) Semitrailers.

(2) Charter or regulated route buses may be up to 45 feet in length, not including energy absorbing bumpers.

(a-1) A motor home as defined in Section 1-145.01 may be up to 45 feet in length, not including energy absorbing bumpers. The length limitations described in this subsection (a-1) shall be exclusive of energy-absorbing bumpers and rear view mirrors.

(b) On all non-State highways, the maximum length of vehicles in combinations is as follows:

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- (1) A truck tractor in combination with a semitrailer may not exceed 55 feet overall dimension.
- (2) A truck tractor-semi-trailer-trailer may not exceed 60 feet overall dimension.
- (3) Combinations specially designed to transport motor vehicles or boats may not exceed 60 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph (6) of subsection (c) of this Section, is exempt from length limitations.

All other combinations not listed in this subsection (b) may not exceed 60 feet overall dimension.

(c) Combinations of vehicles may not exceed a total of 2 vehicles except the following:

- (1) A truck tractor semitrailer may draw one trailer.
- (2) A truck tractor semitrailer may draw one converter dolly.
- (3) A truck tractor semitrailer may draw one vehicle that is defined in Chapter 1 as special mobile equipment, provided the overall dimension does not exceed 60 feet.
- (4) A truck in transit may draw 3 trucks in transit coupled together by the triple saddlemount method.

(5) Recreational vehicles consisting of 3 vehicles, provided the following:

- (A) The total overall dimension does not exceed 60 feet.
- (B) The towing vehicle is a properly registered vehicle capable of towing another vehicle using a fifth-wheel type assembly.

(C) The second vehicle in the combination of vehicles is a recreational vehicle that is towed by a fifth-wheel assembly. This vehicle must be properly registered and must be equipped with brakes, regardless of weight.

(D) The third vehicle must be the lightest of the 3 vehicles and be a trailer or semitrailer designed or used for transporting a boat, all-terrain vehicle, personal watercraft, or motorcycle.

(E) The towed vehicles may be only for the use of the operator of the towing vehicle.

(F) All vehicles must be properly equipped with operating brakes and safety equipment required by this Code, except the additional brake requirement in subdivision (C) of this subparagraph (5).

(6) A tow truck in combination with a disabled vehicle or combination of disabled vehicles, provided the towing vehicle:

(A) Is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes. For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(B) Is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions.

(C) Is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles.

(D) Does not engage a tow exceeding 50 highway miles from the initial point of wreck or disablement to a place of repair. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code.

The Department may by rule or regulation prescribe additional requirements regarding length limitations for a tow truck towing another vehicle.

For purposes of this Section, a tow-dolly that merely serves as substitute wheels for another legally licensed vehicle is considered part of the licensed vehicle and not a separate vehicle.

(d) On Class I highways there are no overall length limitations on motor vehicles operating in combinations

provided:

- (1) The length of a semitrailer, unladen or with load, in combination with a truck tractor may not exceed 53 feet.
- (2) The distance between the kingpin and the center of the rear axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 45 feet 6 inches.
- (3) The length of a semitrailer or trailer, unladen or with load, operated in a truck tractor-semitrailer-trailer combination, may not exceed 28 feet 6 inches.
- (4) Maxi-cube combinations, as defined in Chapter 1, may not exceed 65 feet overall dimension.
- (5) Combinations of vehicles specifically designed to transport motor vehicles or boats may not exceed 65 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.
- (6) Stinger steered semitrailer vehicles as defined in Chapter 1, specifically designed to transport motor vehicles or boats, may not exceed 75 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.
- (7) A truck in transit transporting 3 trucks coupled together by the triple saddlemount method may not exceed 75 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph (6) of subsection (c) of this Section, is exempt from length limitations.

The length limitations described in this paragraph (d) shall be exclusive of safety and energy conservation devices, such as bumpers, refrigeration units or air compressors and other devices, that the Department may interpret as necessary for safe and efficient operation; except that no device excluded under this paragraph shall have by its design or use the capability to carry cargo.

Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to the designation of highways under this paragraph (d).

(e) On Class II highways there are no overall length limitations on motor vehicles operating in combinations, provided:

- (1) The length of a semitrailer, unladen or with load, in combination with a truck tractor, may not exceed 53 feet overall dimension.
- (2) The distance between the kingpin and the center of the rear axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 45 feet 6 inches.
- (3) A truck tractor-semitrailer-trailer combination may not exceed 65 feet in dimension from front axle to rear axle.
- (4) The length of a semitrailer or trailer, unladen or with load, operated in a truck tractor-semitrailer-trailer combination, may not exceed 28 feet 6 inches.
- (5) Maxi-cube combinations, as defined in Chapter 1, may not exceed 65 feet overall dimension.
- (6) A combination of vehicles, specifically designed to transport motor vehicles or boats, may not exceed 65 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.
- (7) Stinger steered semitrailer vehicles, as defined in Chapter 1, specifically designed to transport motor vehicles or boats, may not exceed 75 feet overall dimension. The length limitation is inclusive of front and rear bumpers but exclusive of the overhang of the transported vehicles, as provided in paragraph (i) of this Section.
- (8) A truck in transit transporting 3 trucks coupled together by the triple saddlemount method may not exceed 75 feet overall dimension.

Vehicles operating during daylight hours when transporting poles, pipes, machinery, or other objects of a structural nature that cannot readily be dismembered are exempt from length limitations, provided that no object

may exceed 80 feet in length and the overall dimension of the vehicle including the load may not exceed 100 feet. This exemption does not apply to operation on a Saturday, Sunday, or legal holiday. Legal holidays referred to in this Section are the days on which the following traditional holidays are celebrated: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties are exempt from length limitations, provided that during night operations every vehicle and its load must be equipped with a sufficient number of clearance lamps on both sides and marker lamps on the extreme ends of any projecting load to clearly mark the dimensions of the load.

A tow truck in combination with a disabled vehicle or combination of disabled vehicles, as provided in paragraph (6) of subsection (c) of this Section, is exempt from length limitations.

Local authorities, with respect to streets and highways under their jurisdiction, may also by ordinance or resolution allow length limitations of this subsection (e).

The length limitations described in this paragraph (e) shall be exclusive of safety and energy conservation devices, such as bumpers, refrigeration units or air compressors and other devices, that the Department may interpret as necessary for safe and efficient operation; except that no device excluded under this paragraph shall have by its design or use the capability to carry cargo.

(e-1) Combinations of vehicles not exceeding 65 feet overall length are allowed access as follows:

(1) From any State designated highway onto any county, township, or municipal highway for a distance of 5 highway miles for the purpose of loading and unloading, provided:

(A) The vehicle does not exceed 73,280 pounds in gross weight and 8 feet 6 inches in width.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(2) From any State designated highway onto any county or township highway for a distance of 5 highway miles or onto any municipal highway for a distance of one highway mile for the purpose of food, fuel, repairs, and rest, provided:

(A) The vehicle does not exceed 73,280 pounds in gross weight and 8 feet 6 inches in width.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(e-2) Except as provided in subsection (e-3), combinations of vehicles over 65 feet in length, with no overall length limitation except as provided in subsections (d) and (e) of this Section, are allowed access as follows:

(1) From a Class I highway onto any street or highway for a distance of one highway mile for the purpose of loading, unloading, food, fuel, repairs, and rest, provided there is no sign prohibiting that access.

(2) From a Class I or Class II highway onto any State highway or any locally designated highway for a distance of 5 highway miles for the purpose of loading, unloading, food, fuel, repairs, and rest.

(e-3) Combinations of vehicles over 65 feet in length operated by household goods carriers, with no overall length limitations except as provided in subsections (d) and (e) of this Section, have unlimited access to points of loading and unloading.

Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to the designation of highways under this paragraph (e).

(f) On Class III and other non-designated State highways, the length limitations for vehicles in combination are as follows:

(1) Truck tractor-semitrailer combinations, must comply with either a maximum 55 feet overall wheel base or a maximum 65 feet extreme overall dimension.

(2) Semitrailers, unladen or with load, may not exceed 53 feet overall dimension.

(3) No truck tractor-semitrailer-trailer combination may exceed 60 feet extreme overall dimension.

(4) The distance between the kingpin and the center axle of a semitrailer longer than 48 feet, in combination with a truck tractor, may not exceed 42 feet 6 inches.

(g) Length limitations in the preceding subsections of this Section 15-107 do not apply to the following:

(1) Vehicles operated in the daytime, except on Saturdays, Sundays, or legal holidays, when transporting poles, pipe, machinery, or other objects of a structural nature that cannot readily be dismembered, provided the overall length of vehicle and load may not exceed 100 feet and no object exceeding 80 feet in length may be transported unless a permit has been obtained as authorized in Section 15-301.

(2) Vehicles and loads operated by a public utility while en route to make emergency repairs to public service facilities or properties, but during night operation every vehicle and its load must be

equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

(3) A tow truck in combination with a disabled vehicle or combination of disabled vehicles, provided the towing vehicle meets the following conditions:

(A) It is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes.

(B) It is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions.

(C) It is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles.

(D) It does not engage in a tow exceeding 50 miles from the initial point of wreck or disablement.

The Department may by rule or regulation prescribe additional requirements regarding length limitations for a tow truck towing another vehicle. The towing vehicle, however, may tow any disabled vehicle from the initial point of wreck or disablement to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, shall mean the value specified by the manufacturer as the loaded weight of the tow truck. Legal holidays referred to in this Section shall be specified as the day on which the following traditional holidays are celebrated:

New Year's Day;

Memorial Day;

Independence Day;

Labor Day;

Thanksgiving Day; and

Christmas Day.

(h) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than 3 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a front bumper. The provisions of this subsection (h) shall not apply to any vehicle or combination of vehicles specifically designed for the collection and transportation of waste, garbage, or recyclable materials during the vehicle's operation in the course of collecting garbage, waste, or recyclable materials if the vehicle is traveling at a speed not in excess of 15 miles per hour during the vehicle's operation and in the course of collecting garbage, waste, or recyclable materials. However, in no instance shall the load extend more than 7 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a front bumper.

(i) The load upon the front vehicle of a combination of vehicles specifically designed to transport motor vehicles shall not extend more than 3 feet beyond the foremost part of the transporting vehicle and the load upon the rear transporting vehicle shall not extend more than 4 feet beyond the rear of the bed or body of the vehicle. This paragraph shall only be applicable upon highways designated in paragraphs (d) and (e) of this Section.

(j) Articulated vehicles comprised of 2 sections, neither of which exceeds a length of 42 feet, designed for the carrying of more than 10 persons, may be up to 60 feet in length, not including energy absorbing bumpers, provided that the vehicles are:

1. operated by or for any public body or motor carrier authorized by law to provide public transportation services; or

2. operated in local public transportation service by any other person and the municipality in which the service is to be provided approved the operation of the vehicle.

(j-1) (Blank).

(k) Any person who is convicted of violating this Section is subject to the penalty as provided in paragraph (b) of Section 15-113.

(l) (Blank).

(Source: P.A. 92-417, eff. 1-1-02; 92-766, eff. 1-1-03; 92-883, eff. 1-13-03; 93-177, eff. 7-11-03.)

(625 ILCS 5/15-111) (from Ch. 95 1/2, par. 15-111)

Sec. 15-111. Wheel and axle loads and gross weights.

(a) On non-designated highways, no vehicle or combination of vehicles equipped with pneumatic tires may be operated, unladen or with load, when the total weight transmitted to the road surface exceeds 18,000 pounds on a single axle or 32,000 pounds on a tandem axle with no axle within the tandem exceeding 18,000 pounds except:

(1) when a different limit is established and posted in accordance with Section 15-316 of this Code;

(2) vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code;

- (3) tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle;
- (4) any single axle of a 2-axle truck weighing 36,000 pounds or less and not a part of a combination of vehicles, shall not exceed 20,000 pounds;
- (5) any single axle of a 2-axle truck equipped with a personnel lift or digger derrick, weighing 36,000 pounds or less, owned and operated by a public utility, shall not exceed 20,000 pounds;
- (6) any single axle of a 2-axle truck specially equipped with a front loading compactor used exclusively for garbage, refuse, or recycling may not exceed 20,000 pounds per axle, provided that the gross weight of the vehicle does not exceed 40,000 pounds;

(7) a truck, not in combination and specially equipped with a selfcompactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage or refuse operations may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;

(8) a truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;

(9) tandem axles on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 18,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 32,000 pounds through the series of 2 axles and neither axle of the series may exceed 18,000 pounds;

(10) tandem axles on a 4-axle truck mixer, whose fourth axle is a road surface engaging mixer trailing axle, registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete and manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 18,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 32,000 pounds through the series of 2 axles and neither axle of the series may exceed 18,000 pounds;

(11) 4-axle vehicles or a 5 or more axle combination of vehicles: The weight transmitted upon the road surface through any series of 3 axles whose centers are more than 96 inches apart, measured between extreme axles in the series, may not exceed those allowed in the table contained in subsection (f) of this Section. No axle or tandem axle of the series may exceed the maximum weight permitted under this Section for a single or tandem axle.

No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.

(b) On non-designated highways, the gross weight of vehicles and combination of vehicles including the weight of the vehicle or combination and its maximum load shall be subject to the foregoing limitations and further shall not exceed the following gross weights dependent upon the number of axles and distance between extreme axles of the vehicle or combination measured longitudinally to the nearest foot.

VEHICLES HAVING 2 AXLES 36,000 pounds

VEHICLES OR COMBINATIONS HAVING 3 AXLES

With Tandem Axles	Maximum Gross Weight (pounds)	With or Without Tandem Axles	Maximum Gross Weight (pounds)
Minimum distance to nearest foot between extreme axles		Minimum distance to nearest foot between extreme axles	
10 feet	41,000	16 feet	46,000
11	42,000	17	47,000

12	43,000	18	47,500
13	44,000	19	48,000
14	44,500	20	49,000
15	45,000	21 feet or more	50,000

VEHICLES OR COMBINATIONS HAVING 4 AXLES

Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)	Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)
15 feet	50,000	26 feet	57,500
16	50,500	27	58,000
17	51,500	28	58,500
18	52,000	29	59,500
19	52,500	30	60,000
20	53,500	31	60,500
21	54,000	32	61,500
22	54,500	33	62,000
23	55,500	34	62,500
24	56,000	35	63,500
25	56,500	36 feet or more	64,000

A vehicle not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (b) for 4 axles measured between the extreme axles of the vehicle.

COMBINATIONS HAVING 5 OR MORE AXLES

Minimum distance to nearest foot between extreme axles	Maximum Gross Weight (pounds)
42 feet or less	72,000
43	73,000
44 feet or more	73,280

VEHICLES OPERATING ON CRAWLER TYPE TRACKS 40,000 pounds

TRUCKS EQUIPPED WITH SELFCOMPACTORS OR ROLL-OFF HOISTS AND ROLL-OFF CONTAINERS FOR GARBAGE OR REFUSE HAULS ONLY AND TRUCKS USED FOR THE COLLECTION OF RENDERING MATERIALS

On Highway Not Part of National System of Interstate and Defense Highways	
with 2 axles	36,000 pounds
with 3 axles	54,000 pounds

TWO AXLE TRUCKS EQUIPPED WITH A FRONT LOADING COMPACTOR USED EXCLUSIVELY FOR THE COLLECTION OF GARBAGE, REFUSE, OR RECYCLING

with 2 axles	40,000 pounds
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(c) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds.

(d) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells.

A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided

that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:

- (1) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;
- (2) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;
- (3) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and
- (4) does not engage in a tow exceeding 20 miles from the initial point of wreck or

disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code. The towing vehicle, however, may tow any disabled vehicle from the initial point of wreck or disablement to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed.

The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, shall mean the value specified by the manufacturer as the loaded weight of the tow truck.

(e) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15-301 through 15-319 of this Chapter.

(f) On designated Class I, II, or III highways and the National System of Interstate and Defense Highways, no vehicle or combination of vehicles with pneumatic tires may be operated, unladen or with load, when the total weight on the road surface exceeds the following: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds; 80,000 pounds gross weight for vehicle combinations of 5 or more axles; or a total weight on a group of 2 or more consecutive axles in excess of that weight produced by the application of the following formula: $W = 500 \text{ times the sum of } (LN \text{ divided by } N-1) + 12N + 36$, where "W" equals overall total weight on any group of 2 or more consecutive axles to the nearest 500 pounds, "L" equals the distance measured to the nearest foot between extremes of any group of 2 or more consecutive axles, and "N" equals the number of axles in the group under consideration.

The above formula when expressed in tabular form results in allowable loads as follows:

Distance measured to the nearest foot between the extremes of any group of 2 or more consecutive axles	Maximum weight in pounds of any group of 2 or more consecutive axles					
	2 axles	3 axles	4 axles	5 axles	6 axles	
4 feet	34,000					
5	34,000					
6	34,000					
7	34,000					
8	38,000*	42,000				
9	39,000	42,500				

10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
16		48,000	52,500	58,000	
17		48,500	53,500	58,500	
18		49,500	54,000	59,000	
19		50,000	54,500	60,000	
20		51,000	55,500	60,500	66,000
21		51,500	56,000	61,000	66,500
22		52,500	56,500	61,500	67,000
23		53,000	57,500	62,500	68,000
24		54,000	58,000	63,000	68,500
25		54,500	58,500	63,500	69,000
26		55,500	59,500	64,000	69,500
27		56,000	60,000	65,000	70,000
28		57,000	60,500	65,500	71,000
29		57,500	61,500	66,000	71,500
30		58,500	62,000	66,500	72,000
31		59,000	62,500	67,500	72,500
32		60,000	63,500	68,000	73,000
33			64,000	68,500	74,000
34			64,500	69,000	74,500
35			65,500	70,000	75,000
36			66,000	70,500	75,500
37			66,500	71,000	76,000
38			67,500	72,000	77,000
39			68,000	72,500	77,500
40			68,500	73,000	78,000
41			69,500	73,500	78,500
42			70,000	74,000	79,000
43			70,500	75,000	80,000
44			71,500	75,500	
45			72,000	76,000	
46			72,500	76,500	
47			73,500	77,500	
48			74,000	78,000	
49			74,500	78,500	
50			75,500	79,000	
51			76,000	80,000	
52			76,500		
53			77,500		
54			78,000		
55			78,500		
56			79,500		
57			80,000		

*If the distance between 2 axles is 96 inches or less, the 2 axles are tandem axles and the maximum total weight may not exceed 34,000 pounds, notwithstanding the higher limit resulting from the application of the formula.

Vehicles not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (f) for 4 axles measured between the extreme axles of the vehicle.

Vehicles in a combination having more than 6 axles may not exceed the weight in the table in this subsection (f) for 6 axles measured between the extreme axles of the combination.

Local authorities, with respect to streets and highways under their jurisdiction, without additional fees, may also by ordinance or resolution allow the weight limitations of this subsection, provided the maximum gross weight on any one axle shall not exceed 20,000 pounds and the maximum total weight on any tandem axle shall not exceed 34,000 pounds, on designated highways when appropriate regulatory signs giving notice are erected upon the street or highway or portion of any street or highway affected by the ordinance or resolution.

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The following are exceptions to the above formula:

(1) Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(2) Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code.

(3) Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code. These vehicles are not subject to the bridge formula.

(4) Tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle.

(5) A tandem axle on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, with a distance between 2 axles in a series greater than 72 inches but not more than 96 inches may not exceed a total weight of 36,000 pounds and neither axle of the series may exceed 18,000 pounds.

(6) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage or refuse operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 36,000 pounds gross weight on a 2-axle vehicle; 54,000 pounds gross weight on a 3-axle vehicle. This vehicle is not subject to the bridge formula.

(7) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 18,000 pounds on a single axle; 32,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of this amendatory Act of the 92nd General Assembly, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2014 may not exceed the weights allowed by the bridge formula.

No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.

(f-1) A vehicle and load not exceeding 73,280 pounds is allowed access as follows:

(1) From any State designated highway onto any county, township, or municipal highway for a distance of 5 highway miles for the purpose of loading and unloading, provided:

(A) The vehicle and load does not exceed 8 feet 6 inches in width and 65 feet overall length.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(2) From any State designated highway onto any county or township highway for a distance of 5 highway miles, or any municipal highway for a distance of one highway mile for the purpose of food, fuel, repairs, and rest, provided:

(A) The vehicle and load does not exceed 8 feet 6 inches in width and 65 feet overall length.

(B) There is no sign prohibiting that access.

(C) The route is not being used as a thoroughfare between State designated highways.

(f-2) A vehicle and load greater than 73,280 pounds in weight but not exceeding 80,000 pounds is allowed access as follows:

(1) From a Class I highway onto any street or highway for a distance of one highway mile for the purpose of loading, unloading, food, fuel, repairs, and rest, provided there is no sign prohibiting that access.

(2) From a Class I, II, or III highway onto any State highway or any local designated highway for a distance of 5 highway miles for the purpose of loading, unloading, food, fuel, repairs, and rest.

Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to the designation of highways under this subsection.

(g) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure

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constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section.

(h) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.

(i) Upon the trial of any person charged with a violation of subsections (g) or (h) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure.

(Source: P.A. 92-417, eff. 1-1-02; 93-177, eff. 7-11-03; 93-186, eff. 1-1-04; revised 8-12-03.)

(625 ILCS 5/15-301) (from Ch. 95 1/2, par. 15-301)

Sec. 15-301. Permits for excess size and weight.

(a) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application and good cause being shown therefor, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this Act or otherwise not in conformity with this Act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which the party is responsible. Applications and permits other than those in written or printed form may only be accepted from and issued to the company or individual making the movement. Except for an application to move directly across a highway, it shall be the duty of the applicant to establish in the application that the load to be moved by such vehicle or combination is composed of a single nondivisible object that cannot reasonably be dismantled or disassembled. For the purpose of over length movements, more than one object may be carried side by side as long as the height, width, and weight laws are not exceeded and the cause for the over length is not due to multiple objects. For the purpose of over height movements, more than one object may be carried as long as the cause for the over height is not due to multiple objects and the length, width, and weight laws are not exceeded. For the purpose of an over width movement, more than one object may be carried as long as the cause for the over width is not due to multiple objects and length, height, and weight laws are not exceeded. No state or local agency shall authorize the issuance of excess size or weight permits for vehicles and loads that are divisible and that can be carried, when divided, within the existing size or weight maximums specified in this Chapter. Any excess size or weight permit issued in violation of the provisions of this Section shall be void at issue and any movement made thereunder shall not be authorized under the terms of the void permit. In any prosecution for a violation of this Chapter when the authorization of an excess size or weight permit is at issue, it is the burden of the defendant to establish that the permit was valid because the load to be moved could not reasonably be dismantled or disassembled, or was otherwise nondivisible.

(b) The application for any such permit shall: (1) state whether such permit is requested for a single trip or for limited continuous operation; (2) state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law, if so, his certificate, registration or permit number issued by the Illinois Commerce Commission; (3) specifically describe and identify the vehicle or vehicles and load to be operated or moved except that for vehicles or vehicle combinations registered by the Department as provided in Section 15-319 of this Chapter, only the Illinois Department of Transportation's (IDT) registration number or classification need be given; (4) state the routing requested including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance with the Department's rules and regulations, provided the applicant has approval to travel on local roads; and (5) state if the vehicles or loads are being transported for hire. No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under the Illinois Motor Carrier of Property Law to have a certificate, registration or permit and does not have such certificate, registration or permit.

(c) The Department or local authority when not inconsistent with traffic safety is authorized to issue or withhold such permit at its discretion; or, if such permit is issued at its discretion to prescribe the route or routes to be traveled, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operations of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure. The Department shall maintain a daily record of each permit issued along with the fee and the stipulated dimensions, weights, conditions and restrictions authorized and this record shall be presumed correct in any case of questions or dispute. The Department shall install an automatic device for recording applications received and permits issued by telephone. In making application by telephone, the

Department and applicant waive all objections to the recording of the conversation.

(d) The Department shall, upon application in writing from any local authority, issue an annual permit authorizing the local authority to move oversize highway construction, transportation, utility and maintenance equipment over roads under the jurisdiction of the Department. The permit shall be applicable only to equipment and vehicles owned by or registered in the name of the local authority, and no fee shall be charged for the issuance of such permits.

(e) As an exception to paragraph (a) of this Section, the Department and local authorities, with respect to highways under their respective jurisdictions, in their discretion and upon application in writing may issue a special permit for limited continuous operation, authorizing the applicant to move loads of sweet corn, soybeans, corn, wheat, milo, other small grains and ensilage during the harvest season only on a 2 axle single vehicle registered by the Secretary of State with axle loads not to exceed 35% above those provided in Section 15-111. Permits may be issued for a period not to exceed 40 days and moves may be made of a distance not to exceed 25 miles from a field to a specified processing plant over any highway except the National System of Interstate and Defense Highways. All such vehicles shall be operated in the daytime except when weather or crop conditions require emergency operation at night, but with respect to such night operation, every such vehicle with load shall be equipped with flashing amber lights as specified under Section 12-215. Upon a declaration by the Governor that an emergency harvest situation exists, a special permit issued by the Department under this Section shall not be required from September 1 through December 31 during harvest season emergencies, provided that the weight does not exceed 20% above the limits provided in Section 15-111. All other restrictions that apply to permits issued under this Section shall apply during the declared time period. With respect to highways under the jurisdiction of local authorities, the local authorities may, at their discretion, waive special permit requirements during harvest season emergencies. This permit exemption shall apply to all vehicles eligible to obtain permits under this Section, including commercial vehicles in use during the declared time period.

(f) The form and content of the permit shall be determined by the Department with respect to highways under its jurisdiction and by local authorities with respect to highways under their jurisdiction. Every permit shall be in written form and carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit and no person shall violate any of the terms or conditions of such special permit. Violation of the terms and conditions of the permit shall not be deemed a revocation of the permit; however, any vehicle and load found to be off the route prescribed in the permit shall be held to be operating without a permit. Any off route vehicle and load shall be required to obtain a new permit or permits, as necessary, to authorize the movement back onto the original permit routing. No rule or regulation, nor anything herein shall be construed to authorize any police officer, court, or authorized agent of any authority granting the permit to remove the permit from the possession of the permittee unless the permittee is charged with a fraudulent permit violation as provided in paragraph (i). However, upon arrest for an offense of violation of permit, operating without a permit when the vehicle is off route, or any size or weight offense under this Chapter when the permittee plans to raise the issuance of the permit as a defense, the permittee, or his agent, must produce the permit at any court hearing concerning the alleged offense.

If the permit designates and includes a routing to a certified scale, the permittee, while enroute to the designated scale, shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:

Single axle	2000 pounds
Tandem axle	3000 pounds
Gross	5000 pounds

(g) The Department is authorized to adopt, amend, and to make available to interested persons a policy concerning reasonable rules, limitations and conditions or provisions of operation upon highways under its jurisdiction in addition to those contained in this Section for the movement by special permit of vehicles, combinations, or loads which cannot reasonably be dismantled or disassembled, including manufactured and modular home sections and portions thereof. All rules, limitations and conditions or provisions adopted in the policy shall have due regard for the safety of the traveling public and the protection of the highway system and shall have been promulgated in conformity with the provisions of the Illinois Administrative Procedure Act. The requirements of the policy for flagmen and escort vehicles shall be the same for all moves of comparable size and weight. When escort vehicles are required, they shall meet the following requirements:

(1) All operators shall be 18 years of age or over and properly licensed to operate the vehicle.

(2) Vehicles escorting oversized loads more than 12-feet wide must be equipped with a rotating or flashing amber light mounted on top as specified under Section 12-215.

The Department shall establish reasonable rules and regulations regarding liability insurance or self insurance for vehicles with oversized loads promulgated under The Illinois Administrative Procedure Act. Police vehicles may be required for escort under circumstances as required by rules and regulations of the Department.

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(h) Violation of any rule, limitation or condition or provision of any permit issued in accordance with the provisions of this Section shall not render the entire permit null and void but the violator shall be deemed guilty of violation of permit and guilty of exceeding any size, weight or load limitations in excess of those authorized by the permit. The prescribed route or routes on the permit are not mere rules, limitations, conditions, or provisions of the permit, but are also the sole extent of the authorization granted by the permit. If a vehicle and load are found to be off the route or routes prescribed by any permit authorizing movement, the vehicle and load are operating without a permit. Any off route movement shall be subject to the size and weight maximums, under the applicable provisions of this Chapter, as determined by the type or class highway upon which the vehicle and load are being operated.

(i) Whenever any vehicle is operated or movement made under a fraudulent permit the permit shall be void, and the person, firm, or corporation to whom such permit was granted, the driver of such vehicle in addition to the person who issued such permit and any accessory, shall be guilty of fraud and either one or all persons may be prosecuted for such violation. Any person, firm, or corporation committing such violation shall be guilty of a Class 4 felony and the Department shall not issue permits to the person, firm or corporation convicted of such violation for a period of one year after the date of conviction. Penalties for violations of this Section shall be in addition to any penalties imposed for violation of other Sections of this Act.

(j) Whenever any vehicle is operated or movement made in violation of a permit issued in accordance with this Section, the person to whom such permit was granted, or the driver of such vehicle, is guilty of such violation and either, but not both, persons may be prosecuted for such violation as stated in this subsection (j). Any person, firm or corporation convicted of such violation shall be guilty of a petty offense and shall be fined for the first offense, not less than \$50 nor more than \$200 and, for the second offense by the same person, firm or corporation within a period of one year, not less than \$200 nor more than \$300 and, for the third offense by the same person, firm or corporation within a period of one year after the date of the first offense, not less than \$300 nor more than \$500 and the Department shall not issue permits to the person, firm or corporation convicted of a third offense during a period of one year after the date of conviction for such third offense.

(k) Whenever any vehicle is operated on local roads under permits for excess width or length issued by local authorities, such vehicle may be moved upon a State highway for a distance not to exceed one-half mile without a permit for the purpose of crossing the State highway.

(l) Notwithstanding any other provision of this Section, the Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, may at their discretion authorize the movement of a vehicle in violation of any size or weight requirement, or both, that would not ordinarily be eligible for a permit, when there is a showing of extreme necessity that the vehicle and load should be moved without unnecessary delay.

For the purpose of this subsection, showing of extreme necessity shall be limited to the following: shipments of livestock, hazardous materials, liquid concrete being hauled in a mobile cement mixer, or hot asphalt.

(m) Penalties for violations of this Section shall be in addition to any penalties imposed for violating any other Section of this Code.

(n) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to operate a tow-truck that exceeds the weight limits provided for in subsection (d) of Section 15-111, provided:

(1) no rear single axle of the tow-truck exceeds 26,000 pounds;

(2) no rear tandem axle of the tow-truck exceeds 50,000 pounds;

(2.1) no triple rear axle on a manufactured recovery unit exceeds 56,000 pounds;

(3) neither the disabled vehicle nor the disabled combination of vehicles exceed the weight restrictions imposed by this Chapter 15, or the weight limits imposed under a permit issued by the Department prior to hookup;

(4) the tow-truck prior to hookup does not exceed the weight restrictions imposed by this Chapter 15;

(5) during the tow operation the tow-truck does not violate any weight restriction sign;

(6) the tow-truck is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(7) the tow-truck is specifically designed and licensed as a tow-truck;

(8) the tow-truck has a gross vehicle weight rating of sufficient capacity to safely handle the load;

(9) the tow-truck is equipped with air brakes;

(10) the tow-truck is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles;

(11) the tow commences at the initial point of wreck or disablement and terminates at a point where the repairs are actually to occur ~~the tow distance of the tow does not exceed 50 miles from the point of disablement to a place~~

of repair or safekeeping;

(12) the permit issued to the tow-truck is carried in the tow-truck and exhibited on demand by a police officer; and

(13) the movement shall be valid only on state routes approved by the Department.

(Source: P.A. 90-89, eff. 1-1-98; 90-228, eff. 7-25-97; 90-655, eff. 7-30-98; 90-676, eff. 7-31-98; 91-569, eff. 1-1-00.)

(625 ILCS 5/15-308.2)

Sec. 15-308.2. Fees for special permits for tow-trucks. The fee for a special permit to operate a tow-truck pursuant to subsection (n) of Section 15-301 is \$50 ~~\$500~~ quarterly and \$200 ~~\$2,000~~ annually.

(Source: P.A. 91-569, eff. 1-1-00.)

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.

On motion of Senator Collins, **House Bill No. 686** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 1 was held in the Committee on Rules.

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 686 by replacing everything after the enacting clause with the following:

"Section 5. The Inclusion of Women and Minorities in Clinical Research Act is amended by changing Sections 5 and 10 as follows:

(30 ILCS 785/5)

Sec. 5. Definitions. In this Act:

"Grantee" means any qualified public, private, or not-for-profit agency or individual, including, but not limited to, a college, university, hospital, laboratory, research institution, local health department, voluntary health agency, health maintenance organization, corporation, student, fellow, or entrepreneur, conducting clinical research using State funds. A grantee may also be a corporation that is headquartered in Illinois and that conducts research using State funds.

"Minority group" means a group that is a readily identifiable subset of the U.S. population that is distinguished by racial, ethnic, or cultural heritage. The following racial and ethnic categories shall be used as guidelines:

(1) "American Indian or Alaskan Native" means a person having origins in any of the original native peoples of North America and who maintains a cultural identification through tribal affiliation or community recognition.

(2) "Asian or Pacific Islander" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including, but not limited to, China, India, Japan, Korea, the Philippine Islands, and Samoa.

(3) "Black" means someone not of Hispanic origin having origins in any of the black racial groups of Africa.

(4) "Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race is defined as in the 2000 National Institutes of Health guidelines.

"Project of clinical research" includes a clinical trial.

(Source: P.A. 93-514, eff. 1-1-04.)

(30 ILCS 785/10)

Sec. 10. Inclusion of women and minorities. Except as provided in Section 15 or 30, in conducting or supporting a project of clinical research, a grantee must do all of the following:

(1) Ensure that women, including, but not limited to, women over the age of 40 years, are included as subjects in each research project.

(2) Ensure that members of minority groups are included as subjects in each research project.

(3) Conduct or support outreach programs for the recruitment of women and members of

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minority groups as subjects in projects of clinical research.

(4) Comply with the National Institutes of Health Guidelines on the Inclusion of Women and Minorities in Clinical Research.
(Source: P.A. 93-514, eff. 1-1-04.)".

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.

On motion of Senator Harmon, **House Bill No. 729** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 729 by replacing everything after the enacting clause with the following:

"Section 5. The Tuberculosis Sanitarium District Act is amended by changing Sections 3 and 5.4 as follows:

(70 ILCS 920/3) (from Ch. 23, par. 1703)

Sec. 3. Board of directors.

(a) All courts shall take judicial notice of all tuberculosis sanitarium districts organized under this Act. The affairs of such district shall be managed by a board of 3 directors, appointed by the presiding officer of the county board with the advice and consent of the county board, of the county in which the district is situated, except that in districts of 500,000 or more population the board of directors shall consist of 5 members. At least one member of the board of directors shall be a licensed physician, and all shall be chosen with reference to their special fitness for the office. The first appointments shall be made within 90 days and not sooner than 60 days after the district has been organized as provided herein. Each member of the board shall be a legal voter in the district. At the time of the making of the first appointments, one director shall be appointed for a term of one year, one for a term of 2 years, and one for 3, as the case may be, for a term of 3 years, and until their successors are appointed and qualified. At the expiration of the term of any member, his successor shall be appointed in like manner for a term of 3 years and until his successor is appointed and qualified. But no more than 2 members of such board, if it shall be a board of 3 members, and no more than 3 members of such board, if it shall be a board of 5 members, shall be of the same political party. Each member of the board before entering upon the duties of his office shall take the oath prescribed by the Constitution.

(b) From the time of the appointment of the first board of directors, such district shall be a body corporate and politic by the name and style determined as aforesaid, and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal estate necessary for the corporate purposes and adopt a seal and alter the same at its pleasure.

(c) Notwithstanding any other provision of law to the contrary, upon the effective date of this amendatory Act of the 93rd General Assembly and until its dissolution by operation of law on January 1, 2005, in addition to the members appointed under subsection (a), the board of directors of the Suburban Cook County Tuberculosis Sanitarium District shall consist of 2 additional members as follows: (i) the Director of the Cook County Department of Public Health, or his or her designee, and (ii) an at-large member appointed by the President of the Cook County Board. The additional members appointed under this subsection are subject to the appointment requirements of subsection (a), except to the extent that they conflict with this subsection (c).

(Source: P.A. 85-1440.)

(70 ILCS 920/5.4 new)

Sec. 5.4. Dissolution of Suburban Cook County Tuberculosis Sanitarium District; disposition of land and real estate; continuation of District levy.

(a) Notwithstanding any provision of law to the contrary, the Suburban Cook County Tuberculosis Sanitarium District is dissolved by operation of law on January 1, 2005.

(b) Before January 1, 2005, the Board of Directors shall prepare a transition plan that provides for the consolidation of all of the existing programs, personnel, and infrastructure of the District into the Cook County Bureau of Health Services to be administered by the Cook County Department of Public Health. Beginning on the effective date of this amendatory Act of the 93rd General Assembly and before January 1, 2005, the District shall not make any enhancements to pensions.

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(c) Upon dissolution of the district: (i) all assets and liabilities of the Suburban Cook County Tuberculosis Sanitarium District dissolved under this amendatory Act of the 93rd General Assembly shall be transferred to the Cook County Board and the monetary assets shall be deposited into a special purpose fund for the care and treatment of tuberculosis in suburban Cook County; (ii) the Cook County Department of Public Health shall assume all responsibility for tuberculosis care and treatment of the Suburban Cook County Tuberculosis Sanitarium District dissolved under this amendatory Act of the 93rd General Assembly, including the provision of tuberculosis care and treatment for units of local government with State-certified local public health departments; and (iii) employees of the Suburban Cook County Tuberculosis Sanitarium District become employees of Cook County.

(d) The Cook County Board may transfer to the Cook County Forest Preserve District appropriate unimproved real estate owned by the Suburban Cook County Tuberculosis Sanitarium District at the time of its dissolution. After the dissolution of the District, any land owned by the District at the time of its dissolution remains subject to any leases and encumbrances that existed upon the dissolution of the District and, if the land is subject to a lease, the land may not be taken by any unit of government during the term of the lease.

(e) The Cook County Board may continue, discontinue, reduce, increase, suspend, resume, or reinstate any levy imposed by the dissolved Suburban Cook County Tuberculosis Sanitarium District and may expand the purpose of the levy to include emerging respiratory diseases, including, but not limited to severe acute respiratory syndrome and avian flu. All revenue collected by the Cook County Board as a result of the dissolution of the Suburban Cook County Tuberculosis Sanitarium District shall be collected for the purpose of the care and treatment of tuberculosis in Cook County, except that, if the Cook County Board expands the purpose of the levy to include emerging respiratory diseases, then only that portion of the revenue collected by the Cook County Board that exceeds the amount of revenue collected before the purpose was expanded shall be collected for the purpose of emerging respiratory diseases.

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.

On motion of Senator Peterson, **House Bill No. 753** was recalled from the order of third reading to the order of second reading.

Senator Peterson offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 753 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 18-185 as follows:
(35 ILCS 200/18-185)

Sec. 18-185. Short title; definitions. This Division 5 may be cited as the Property Tax Extension Limitation Law. As used in this Division 5:

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18-205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1-150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this Law before the 1995 levy year and each non-home rule taxing district not subject to this Law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties. Beginning with the levy year in which this Law becomes applicable to a taxing district as provided in Section

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18-213, "taxing district" also includes those taxing districts made subject to this Law as provided in Section 18-213.

"Aggregate extension" for taxing districts to which this Law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1, 1991; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), (e), and (h) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made by a school district that participates in the Special Education District of Lake County, created by special education joint agreement under Section 10-22.31 of the School Code, for payment of the school district's share of the amounts required to be contributed by the Special Education District of Lake County to the Illinois Municipal Retirement Fund under Article 7 of the Illinois Pension Code; the amount of any extension under this item (k) shall be certified by the school district to the county clerk; ~~and~~ (l) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (m) made for temporary relocation loan repayment purposes pursuant to Sections 2-3.77 and 17-2.2d of the School Code, and (n) made for payment of principal and interest on any bonds issued under the authority of Section 17-2.2d of the School Code.

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18-213) means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before March 1, 1995; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before March 1, 1995; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after March 1, 1995 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before March 1, 1995 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before March 1, 1995 to pay for the building project; (g) made for payments due under installment contracts entered into before March 1, 1995; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum and bonds described in subsection (h) of this definition; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made for payments of principal and interest on bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium or museum projects; (l)

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made for payments of principal and interest on bonds authorized by Public Act 87-1191 or ~~93-601 this amendatory Act of the 93rd General Assembly~~ and (i) issued pursuant to Section 21.2 of the Cook County Forest Preserve District Act, (ii) issued under Section 42 of the Cook County Forest Preserve District Act for zoological park projects, or (iii) issued under Section 44.1 of the Cook County Forest Preserve District Act for botanical gardens projects; (m) made pursuant to Section 34-53.5 of the School Code, whether levied annually or not; (n) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (o) made by the Chicago Park District for recreational programs for the handicapped under subsection (c) of Section 7.06 of the Chicago Park District Act.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with Section 18-213, except for those taxing districts subject to paragraph (2) of subsection (e) of Section 18-213, means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the date on which the referendum making this Law applicable to the taxing district is held if the bonds were approved by referendum after the date on which the referendum making this Law applicable to the taxing district is held; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the date on which the referendum making this Law applicable to the taxing district is held for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the date on which the referendum making this Law applicable to the taxing district is held to pay for the building project; (g) made for payments due under installment contracts entered into before the date on which the referendum making this Law applicable to the taxing district is held; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); and (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with paragraph (2) of subsection (e) of Section 18-213 means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the effective date of this amendatory Act of 1997; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the effective date of this amendatory Act of 1997; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the effective date of this amendatory Act of 1997 if the bonds were approved by referendum after the effective date of this amendatory Act of 1997; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the effective date of this amendatory Act of 1997 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the effective date of this amendatory Act of 1997 to pay for the

building project; (g) made for payments due under installment contracts entered into before the effective date of this amendatory Act of 1997; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); and (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code.

"Debt service extension base" means an amount equal to that portion of the extension for a taxing district for the 1994 levy year, or for those taxing districts subject to this Law in accordance with Section 18-213, except for those subject to paragraph (2) of subsection (e) of Section 18-213, for the levy year in which the referendum making this Law applicable to the taxing district is held, or for those taxing districts subject to this Law in accordance with paragraph (2) of subsection (e) of Section 18-213 for the 1996 levy year, constituting an extension for payment of principal and interest on bonds issued by the taxing district without referendum, but not including excluded non-referendum bonds. For park districts (i) that were first subject to this Law in 1991 or 1995 and (ii) whose extension for the 1994 levy year for the payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds) was less than 51% of the amount for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds), "debt service extension base" means an amount equal to that portion of the extension for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds). The debt service extension base may be established or increased as provided under Section 18-212. "Excluded non-referendum bonds" means (i) bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium and museum projects; (ii) bonds issued under Section 15 of the Local Government Debt Reform Act; or (iii) refunding obligations issued to refund or to continue to refund obligations initially issued pursuant to referendum.

"Special purpose extensions" include, but are not limited to, extensions for levies made on an annual basis for unemployment and workers' compensation, self-insurance, contributions to pension plans, and extensions made pursuant to Section 6-601 of the Illinois Highway Code for a road district's permanent road fund whether levied annually or not. The extension for a special service area is not included in the aggregate extension.

"Aggregate extension base" means the taxing district's last preceding aggregate extension as adjusted under Sections 18-215 through 18-230.

"Levy year" has the same meaning as "year" under Section 1-155.

"New property" means (i) the assessed value, after final board of review or board of appeals action, of new improvements or additions to existing improvements on any parcel of real property that increase the assessed value of that real property during the levy year multiplied by the equalization factor issued by the Department under Section 17-30, (ii) the assessed value, after final board of review or board of appeals action, of real property not exempt from real estate taxation, which real property was exempt from real estate taxation for any portion of the immediately preceding levy year, multiplied by the equalization factor issued by the Department under Section 17-30, and (iii) in counties that classify in accordance with Section 4 of Article IX of the Illinois Constitution, an incentive property's additional assessed value resulting from a scheduled increase in the level of assessment as applied to the first year final board of review market value. In addition, the county clerk in a county containing a population of 3,000,000 or more shall include in the 1997 recovered tax increment value for any school district, any recovered tax increment value that was applicable to the 1995 tax year calculations.

"Qualified airport authority" means an airport authority organized under the Airport Authorities Act and located in a county bordering on the State of Wisconsin and having a population in excess of 200,000 and not greater than 500,000.

"Recovered tax increment value" means, except as otherwise provided in this paragraph, the amount of the current year's equalized assessed value, in the first year after a municipality terminates the designation of an area as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial

Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. For the taxes which are extended for the 1997 levy year, the recovered tax increment value for a non-home rule taxing district that first became subject to this Law for the 1995 levy year because a majority of its 1994 equalized assessed value was in an affected county or counties shall be increased if a municipality terminated the designation of an area in 1993 as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, by an amount equal to the 1994 equalized assessed value of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. In the first year after a municipality removes a taxable lot, block, tract, or parcel of real property from a redevelopment project area established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, the Industrial Jobs Recovery Law in the Illinois Municipal Code, or the Economic Development Area Tax Increment Allocation Act, "recovered tax increment value" means the amount of the current year's equalized assessed value of each taxable lot, block, tract, or parcel of real property removed from the redevelopment project area over and above the initial equalized assessed value of that real property before removal from the redevelopment project area.

Except as otherwise provided in this Section, "limiting rate" means a fraction the numerator of which is the last preceding aggregate extension base times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year. For those taxing districts that reduced their aggregate extension for the last preceding levy year, the highest aggregate extension in any of the last 3 preceding levy years shall be used for the purpose of computing the limiting rate. The denominator shall not include new property. The denominator shall not include the recovered tax increment value.

(Source: P.A. 92-547, eff. 6-13-02; 93-601, eff. 1-1-04; 93-606, eff. 11-18-03; 93-612, eff. 11-18-03; revised 12-10-03.)

Section 10. The School Code is amended by adding Section 17-2.2d as follows:

(105 ILCS 5/17-2.2d new)

Sec. 17-2.2d. Special taxing and bonding for temporary relocation expense and emergency replacement purposes.

(a) In addition to any other taxes and notwithstanding any limitation imposed by the Property Tax Extension Limitation Law or any other limitations specified in this Code or any other law, the school board of any district having a population of less than 500,000 inhabitants that meets the criteria specified in subsection (c) of this Section, may, by proper resolution, levy an annual tax not to exceed 0.05% upon the value of the taxable property as equalized or assessed by the Department of Revenue for a period not to exceed 7 years for the purpose of providing for the repayment of moneys distributed for temporary relocation expenses of the district pursuant to Section 2-3.77 of this Code.

(b) The school board of any district that meets the criteria specified in subsection (c) of this Section may repair, reconstruct, or replace a condemned building without seeking referendum approval for the repair, reconstruction, or replacement.

(c) In order for this Section to apply, the school district must (i) be located in a county subject to the Property Tax Extension Limitation Law, (ii) have had a total enrollment of at least 1,075 students as shown on the 2003 Illinois State Report Card, and (iii) have had a school building condemned after January 1, 2004 and prior to June 30, 2004.

(d) Notwithstanding any limitation imposed by the Property Tax Extension Limitation Law or any other limitations specified in this Code or any other law, the school board of any district that meets the criteria specified in subsection (c) of this Section, may, by proper resolution, issue bonds, without referendum, in an amount sufficient to finance the total cost of repair, reconstruction, or replacement of the condemned building. Any premium and all interest earnings on the proceeds of the bonds so issued shall be used for the purposes for which the bonds were issued. The proceeds of any bonds issued under this Section shall be deposited and accounted for separately within the district's site and construction/capital improvements fund. The recording officer of the board shall file in the office of the county clerk of each county in which a portion of the district is situated a certified copy of the resolution providing for the issuance of the bonds and levy of a tax without limit as to rate or amount to pay the

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bonds. Bonds issued under this Section and any bonds issued to refund these bonds are not subject to any debt limitation imposed by this Code.

(e) The school board, as an express condition to receiving a temporary relocation loan under Section 2-3.77 of this Code, must agree to levy the tax provided in this Section at the maximum rate permitted and to pay to the State of Illinois for deposit into the Temporary Relocation Expenses Revolving Grant Fund (i) all proceeds of the tax attributable to the first year and succeeding years for which the tax is levied after moneys appropriated for purposes of Section 2-3.77 have been distributed to the school district and (ii) all insurance proceeds that become payable to the district under those provisions of any contract or policy of insurance that provide reimbursement for or other coverage against loss with respect to any temporary relocation expenses of the district or proceeds of any legal judgment or settlement regarding the temporary relocation expenses incurred by the district, provided that the aggregate of any tax and insurance or other proceeds paid by the district to the State pursuant to this subsection (e) shall not exceed in amount the moneys distributed to the district pursuant to Section 2-3.77 as a loan or grant.

(f) If bonds under this Section have been issued by the school district and the purposes for which the bonds have been issued are accomplished and paid for in full and there remain funds on hand from the proceeds of the bonds or interest earnings or premiums, then the school board, by resolution, shall transfer those excess funds to the district's bond and interest fund for the purpose of abating taxes to pay debt service on the bonds or for defeasance of the debt or both.

(g) If the school district receives a construction grant under the School Construction Law or any other law and the purposes for which the grant was issued are accomplished and paid for in full and there remains funds on hand from the grant or interest earnings thereon, then the excess funds shall be paid to the State of Illinois for deposit into the School Construction Fund or other State fund from which the construction grant was paid.

(h) All insurance proceeds that become payable to the school district under those provisions of a contract or policy of insurance that provide reimbursement for or other coverage against losses other than with respect to any temporary relocation expenses of the district or proceeds of any legal judgment or settlement regarding the repair, reconstruction, or replacement of the condemned building shall be applied to the repair, reconstruction, or replacement. If the project is completed and, therefore, all costs have been paid for in full and there remain funds on hand, including any interest earnings thereon, from the insurance coverage, legal judgment, or settlement, then a portion of those excess funds equal to the State's share of the construction cost of the project shall be paid to the State of Illinois for deposit into the School Construction Fund or other State fund from which the construction grant was paid, and the remainder of the excess funds shall be transferred to the district's bond and interest fund for the purpose of abating taxes to pay debt service on the bonds or for defeasance of the debt or both. If no debt service remains to be paid, then the excess may be transferred to whichever fund that, as determined by the school board, is most in need of the funds.

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.

On motion of Senator Halvorson, **House Bill No. 752** was recalled from the order of third reading to the order of second reading.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 752 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 27-8.1 as follows:

(105 ILCS 5/27-8.1) (from Ch. 122, par. 27-8.1)

Sec. 27-8.1. Health examinations and immunizations.

(1) In compliance with rules and regulations which the Department of Public Health shall promulgate, and except as hereinafter provided, all children in Illinois shall have a health examination as follows: within one year prior to entering kindergarten or the first grade of any public, private, or parochial elementary school; upon entering the fifth and ninth grades of any public, private, or parochial school;

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prior to entrance into any public, private, or parochial nursery school; and, irrespective of grade, immediately prior to or upon entrance into any public, private, or parochial school or nursery school, each child shall present proof of having been examined in accordance with this Section and the rules and regulations promulgated hereunder.

A tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. Additional health examinations of pupils, including ~~dental and~~ vision examinations, may be required when deemed necessary by school authorities. Parents are encouraged to have their children undergo ~~dental and~~ vision examinations at the same points in time required for health examinations.

(1.5) In compliance with rules adopted by the Department of Public Health and except as otherwise provided in this Section, all children in kindergarten and the second and sixth grades of any public, private, or parochial school shall have a dental examination. Each of these children shall present proof of having been examined by a dentist in accordance with this Section and rules adopted under this Section before May 15th of the school year. If a child in the second or sixth grade fails to present proof by May 15th, the school may hold the child's report card until one of the following occurs: (i) the child presents proof of a completed dental examination or (ii) the child presents proof that a dental examination will take place within 60 days after May 15th. The Department of Public Health shall establish, by rule, a waiver for children who show an undue burden or a total lack of access to a dentist. Each public, private, and parochial school must give notice of this dental examination requirement to the parents and guardians of students at least 60 days before May 15th of each school year.

(2) The Department of Public Health shall promulgate rules and regulations specifying the examinations and procedures that constitute a health examination and a dental examination and may recommend by rule that certain additional examinations be performed. The rules and regulations of the Department of Public Health shall specify that a tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. The Department of Public Health shall specify that a diabetes screening as defined by rule shall be included as a required part of each health examination. Diabetes testing is not required.

Physicians licensed to practice medicine in all of its branches, advanced practice nurses who have a written collaborative agreement with a collaborating physician which authorizes them to perform health examinations, or physician assistants who have been delegated the performance of health examinations by their supervising physician shall be responsible for the performance of the health examinations, other than dental examinations and vision and hearing screening, and shall sign all report forms required by subsection (4) of this Section that pertain to those portions of the health examination for which the physician, advanced practice nurse, or physician assistant is responsible. If a registered nurse performs any part of a health examination, then a physician licensed to practice medicine in all of its branches must review and sign all required report forms. Licensed dentists shall perform all dental examinations and shall sign all report forms required by subsection (4) of this Section that pertain to the dental examinations. Physicians licensed to practice medicine in all its branches, or licensed optometrists, shall perform all vision exams required by school authorities and shall sign all report forms required by subsection (4) of this Section that pertain to the vision exam. Vision and hearing screening tests, which shall not be considered examinations as that term is used in this Section, shall be conducted in accordance with rules and regulations of the Department of Public Health, and by individuals whom the Department of Public Health has certified. In these rules and regulations, the Department of Public Health shall require that individuals conducting vision screening tests give a child's parent or guardian written notification, before the vision screening is conducted, that states, "Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months."

(3) Every child shall, at or about the same time as he or she receives a health examination required by subsection (1) of this Section, present to the local school proof of having received such immunizations against preventable communicable diseases as the Department of Public Health shall require by rules and regulations promulgated pursuant to this Section and the Communicable Disease Prevention Act.

(4) The individuals conducting the health examination or dental examination shall record the fact of having conducted the examination, and such additional information as required, on uniform forms which the Department of Public Health and the State Board of Education shall prescribe for statewide use. The examiner shall summarize on the report form any condition that he or she suspects indicates a need for special services. The individuals confirming the administration of required immunizations shall record as

indicated on the form that the immunizations were administered.

(5) If a child does not submit proof of having had either the health examination or the immunization as required, then the child shall be examined or receive the immunization, as the case may be, and present proof by October 15 of the current school year, or by an earlier date of the current school year established by a school district. To establish a date before October 15 of the current school year for the health examination or immunization as required, a school district must give notice of the requirements of this Section 60 days prior to the earlier established date. If for medical reasons one or more of the required immunizations must be given after October 15 of the current school year, or after an earlier established date of the current school year, then the child shall present, by October 15, or by the earlier established date, a schedule for the administration of the immunizations and a statement of the medical reasons causing the delay, both the schedule and the statement being issued by the physician, advanced practice nurse, physician assistant, registered nurse, or local health department that will be responsible for administration of the remaining required immunizations. If a child does not comply by October 15, or by the earlier established date of the current school year, with the requirements of this subsection, then the local school authority shall exclude that child from school until such time as the child presents proof of having had the health examination as required and presents proof of having received those required immunizations which are medically possible to receive immediately. During a child's exclusion from school for noncompliance with this subsection, the child's parents or legal guardian shall be considered in violation of Section 26-1 and subject to any penalty imposed by Section 26-10. This subsection (5) does not apply to dental examinations.

(6) Every school shall report to the State Board of Education by November 15, in the manner which that agency shall require, the number of children who have received the necessary immunizations and the health examination (other than a dental examination) as required, indicating, of those who have not received the immunizations and examination as required, the number of children who are exempt from health examination and immunization requirements on religious or medical grounds as provided in subsection (8). Every school shall report to the State Board of Education by June 1, in the manner that the State Board requires, the number of children who have received the required dental examination, indicating, of those who have not received the required dental examination, the number of children who are exempt from the dental examination on religious grounds as provided in subsection (8) of this Section and the number of children who have received a waiver under subsection (1.5) of this Section. This reported information shall be provided to the Department of Public Health by the State Board of Education.

(7) Upon determining that the number of pupils who are required to be in compliance with subsection (5) of this Section is below 90% of the number of pupils enrolled in the school district, 10% of each State aid payment made pursuant to Section ~~18-8.05~~ ~~18-8~~ to the school district for such year shall be withheld by the regional superintendent until the number of students in compliance with subsection (5) is the applicable specified percentage or higher.

(8) Parents or legal guardians who object to health or dental examinations or any part thereof, or to immunizations, on religious grounds shall not be required to submit their children or wards to the examinations or immunizations to which they so object if such parents or legal guardians present to the appropriate local school authority a signed statement of objection, detailing the grounds for the objection. If the physical condition of the child is such that any one or more of the immunizing agents should not be administered, the examining physician, advanced practice nurse, or physician assistant responsible for the performance of the health examination shall endorse that fact upon the health examination form. Exempting a child from the health or dental examination does not exempt the child from participation in the program of physical education training provided in Sections 27-5 through 27-7 of this Code.

(9) For the purposes of this Section, "nursery schools" means those nursery schools operated by elementary school systems or secondary level school units or institutions of higher learning.

(Source: P.A. 92-703, eff. 7-19-02; 93-504, eff. 1-1-04; 93-530, eff. 1-1-04; revised 9-11-03.)

Section 99. Effective date. This Act takes effect July 1, 2005."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 752, AS AMENDED, with reference to page and line

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numbers of Senate Amendment No. 1, on page 5, line 29, by replacing "1" with "30".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 752, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, line 20, by deleting "total".

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.

On motion of Senator Harmon, **House Bill No. 755** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 755 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 5-1 as follows:

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

Sec. 5-1. County school units.

(a) The territory in each county, exclusive of any school district governed by any special act which requires the district to appoint its own school treasurer, shall constitute a county school unit. County school units of less than 2,000,000 inhabitants shall be known as Class I county school units and the office of township trustees, where existing on July 1, 1962, in such units shall be abolished on that date and all books and records of such former township trustees shall be forthwith thereafter transferred to the county board of school trustees. County school units of 2,000,000 or more inhabitants shall be known as Class II county school units and shall retain the office of township trustees unless otherwise provided in subsection (b) or (c).

(b) Notwithstanding subsections (a) and (c), the school board of any elementary school district having a fall, 1989 aggregate enrollment of at least 2,500 but less than 6,500 pupils and having boundaries that are coterminous with the boundaries of a high school district, and the school board of any high school district having a fall, 1989 aggregate enrollment of at least 2,500 but less than 6,500 pupils and having boundaries that are coterminous with the boundaries of an elementary school district, may, whenever the territory of such school district forms a part of a Class II county school unit, by proper resolution withdraw such school district from the jurisdiction and authority of the trustees of schools of the township in which such school district is located and from the jurisdiction and authority of the township treasurer in such Class II county school unit; provided that the school board of any such school district shall, upon the adoption and passage of such resolution, thereupon elect or appoint its own school treasurer as provided in Section 8-1. Upon the adoption and passage of such resolution and the election or appointment by the school board of its own school treasurer: (1) the trustees of schools in such township shall no longer have or exercise any powers and duties with respect to the school district governed by such school board or with respect to the school business, operations or assets of such school district; and (2) all books and records of the township trustees relating to the school business and affairs of such school district shall be transferred and delivered to the school board of such school district. Upon the effective date of this amendatory Act of 1993, the legal title to, and all right, title and interest formerly held by the township trustees in any school buildings and school sites used and occupied by the school board of such school district for school purposes, that legal title, right, title and interest thereafter having been transferred to and vested in the regional board of school trustees under P.A. 87-473 until the abolition of that regional board of school trustees by P.A. 87-969, shall be deemed transferred by operation of law to and shall vest in the school board of that school district.

Notwithstanding subsections (a) and (c) of this Section, if 2 elementary school districts have a combined fall 2003 aggregate enrollment of at least 5,000 but less than 7,000 pupils and a combined boundary that is coterminous with the boundary of a high school district and the high school district has a fall 2003 aggregate enrollment of at least 2,500 but less than 5,000 pupils and a boundary that is coterminous with the combined boundary of the elementary school districts and if the territory of the high school district forms a part of a Class II county school unit and is composed of 2 or more townships, then the school board of each school district may, by proper resolution, withdraw its school district from the jurisdiction and authority of the trustees of schools of the township or townships in which the school

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district is located and from the jurisdiction and authority of the township treasurer, provided that the school board shall, upon the adoption and passage of the resolution, thereupon elect or appoint its own school treasurer as provided in Section 8-1 of this Code. Upon the adoption and passage of the resolution and the election or appointment by the school board of its own school treasurer, (i) the trustees of schools in the township or townships shall no longer have or exercise any powers and duties with respect to the school district or with respect to the school business, operations, or assets of the school district; (ii) all books and records of the township trustees and all moneys, securities, loanable funds, and other assets relating to the school business and affairs of the school district shall be transferred and delivered to the school board; and (iii) all legal title to and all rights, title, and interest formerly held by the township trustees in any common school lands, school buildings, and school sites used and occupied by the school board and all rights of property and causes of action pertaining to or constituting a part of the common school lands, buildings, and sites shall be deemed transferred by operation of law to and shall vest in the school board.

(c) Notwithstanding the provisions of subsection (a), the offices of township treasurer and trustee of schools of any township located in a Class II county school unit shall be abolished as provided in this subsection if all of the following conditions are met:

(1) During the same 30 day period, each school board of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished gives written notice by certified mail, return receipt requested to the township treasurer and trustees of schools of that township of the date of a meeting of the school board, to be held not more than 90 nor less than 60 days after the date when the notice is given, at which meeting the school board is to consider and vote upon the question of whether there shall be submitted to the electors of the school district a proposition to abolish the offices of township treasurer and trustee of schools of that township. None of the notices given under this paragraph to the township treasurer and trustees of schools of a township shall be deemed sufficient or in compliance with the requirements of this paragraph unless all of those notices are given within the same 30 day period.

(2) Each school board of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished, by the affirmative vote of at least 5 members of the school board at a school board meeting of which notice is given as required by paragraph (1) of this subsection, adopts a resolution requiring the secretary of the school board to certify to the proper election authorities for submission to the electors of the school district at the next consolidated election in accordance with the general election law a proposition to abolish the offices of township treasurer and trustee of schools of that township. None of the resolutions adopted under this paragraph by any elementary or unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished shall be deemed in compliance with the requirements of this paragraph or sufficient to authorize submission of the proposition to abolish those offices to a referendum of the electors in any such school district unless all of the school boards of all of the elementary and unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township adopt such a resolution in accordance with the provisions of this paragraph.

(3) The school boards of all of the elementary and unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished submit a proposition to abolish the offices of township treasurer and trustee of schools of that township to the electors of their respective school districts at the same consolidated election in accordance with the general election law, the ballot in each such district to be in substantially the following form:

OFFICIAL BALLOT

Shall the offices of township
treasurer and YES
trustee of -----
schools of Township NO
Range be abolished?

(4) At the consolidated election at which the proposition to abolish the offices of township treasurer and trustee of schools of a township is submitted to the electors of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustee of schools of that township, a majority of the electors voting on the proposition in each such elementary and unit school district votes in favor of the proposition as submitted to them.

If in each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished a majority of the electors in each such district voting at the consolidated election on the proposition to abolish the offices of township treasurer and trustee of schools of that township votes in favor of the proposition as submitted to them, the proposition

shall be deemed to have passed; but if in any such elementary or unit school district a majority of the electors voting on that proposition in that district fails to vote in favor of the proposition as submitted to them, then notwithstanding the vote of the electors in any other such elementary or unit school district on that proposition the proposition shall not be deemed to have passed in any of those elementary or unit school districts, and the offices of township treasurer and trustee of schools of the township in which those offices were sought to be abolished shall not be abolished, unless in each of those elementary and unit school districts remaining subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township proceedings are again initiated to abolish those offices and all of the proceedings and conditions prescribed in paragraphs (1) through (4) of this subsection are repeated and met in each of those elementary and unit school districts.

Notwithstanding the foregoing provisions of this Section or any other provision of the School Code, the offices of township treasurer and trustee of schools of a township that has a population of less than 200,000 and that contains a unit school district and is located in a Class II county school unit shall also be abolished as provided in this subsection if all of the conditions set forth in paragraphs (1), (2), and (3) of this subsection are met and if the following additional condition is met:

The electors in all of the school districts subject to the jurisdiction and authority

of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished shall vote at the consolidated election on the proposition to abolish the offices of township treasurer and trustee of schools of that township. If a majority of the electors in all of the school districts combined voting on the proposition vote in favor of the proposition, then the proposition shall be deemed to have passed; but if a majority of the electors voting on the proposition in all of the school district fails to vote in favor of the proposition as submitted to them, then the proposition shall not be deemed to have passed and the offices of township treasurer and trustee of schools of the township in which those offices were sought to be abolished shall not be abolished, unless and until the proceedings detailed in paragraphs (1) through (3) of this subsection and the conditions set forth in this paragraph are met.

If the proposition to abolish the offices of township treasurer and trustee of schools of a township is deemed to have passed at the consolidated election as provided in this subsection, those offices shall be deemed abolished by operation of law effective on January 1 of the calendar year immediately following the calendar year in which that consolidated election is held, provided that if after the election, the trustees of schools by resolution elect to abolish the offices of township treasurer and trustee of schools effective on July 1 immediately following the election, then the offices shall be abolished on July 1 immediately following the election. On the date that the offices of township treasurer and trustee of schools of a township are deemed abolished by operation of law, the school board of each elementary and unit school district and the school board of each high school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township at the time those offices are abolished: (i) shall appoint its own school treasurer as provided in Section 8-1; and (ii) unless the term of the contract of a township treasurer expires on the date that the office of township treasurer is abolished, shall pay to the former township treasurer its proportionate share of any aggregate compensation that, were the office of township treasurer not abolished at that time, would have been payable to the former township treasurer after that date over the remainder of the term of the contract of the former township treasurer that began prior to but ends after that date. In addition, on the date that the offices of township treasurer and trustee of schools of a township are deemed abolished as provided in this subsection, the school board of each elementary school, high school and unit school district that until that date is subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township shall be deemed by operation of law to have agreed and assumed to pay and, when determined, shall pay to the Illinois Municipal Retirement Fund a proportionate share of the unfunded liability existing in that Fund at the time these offices are abolished in that calendar year for all annuities or other benefits then or thereafter to become payable from that Fund with respect to all periods of service performed prior to that date as a participating employee in that Fund by persons serving during those periods of service as a trustee of schools, township treasurer or regular employee in the office of the township treasurer of that township. That unfunded liability shall be actuarially determined by the board of trustees of the Illinois Municipal Retirement Fund, and the board of trustees shall thereupon notify each school board required to pay a proportionate share of that unfunded liability of the aggregate amount of the unfunded liability so determined. The amount so paid to the Illinois Municipal Retirement Fund by each of those school districts shall be credited to the account of the township in that Fund. For each elementary school, high school and unit school district under the jurisdiction and authority of a township treasurer and trustees of schools of a township in which those offices are abolished as provided in this subsection, each such district's proportionate share of the aggregate compensation payable to the former township treasurer as provided in this paragraph and each such district's proportionate share of the aggregate amount of the unfunded liability payable to the Illinois Municipal Retirement Fund as provided in this paragraph shall be computed in accordance with the ratio that the number of pupils in average daily attendance in each such district as reported in schedules prepared under Section 24-19 for the school year last ending prior to the date on which the offices of township treasurer and trustee of schools of that township are abolished bears to the aggregate number of pupils in average daily attendance in all of those districts as so reported for that school year.

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Upon abolition of the offices of township treasurer and trustee of schools of a township as provided in this subsection: (i) the regional board of school trustees, in its corporate capacity, shall be deemed the successor in interest to the former trustees of schools of that township with respect to the common school lands and township loanable funds of the township; (ii) all right, title and interest existing or vested in the former trustees of schools of that township in the common school lands and township loanable funds of the township, and all records, moneys, securities and other assets, rights of property and causes of action pertaining to or constituting a part of those common school lands or township loanable funds, shall be transferred to and deemed vested by operation of law in the regional board of school trustees, which shall hold legal title to, manage and operate all common school lands and township loanable funds of the township, receive the rents, issues and profits therefrom, and have and exercise with respect thereto the same powers and duties as are provided by this Code to be exercised by regional boards of school trustees when acting as township land commissioners in counties having at least 220,000 but fewer than 2,000,000 inhabitants; (iii) the regional board of school trustees shall select to serve as its treasurer with respect to the common school lands and township loanable funds of the township a person from time to time also serving as the appointed school treasurer of any school district that was subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township at the time those offices were abolished, and the person selected to also serve as treasurer of the regional board of school trustees shall have his compensation for services in that capacity fixed by the regional board of school trustees, to be paid from the township loanable funds, and shall make to the regional board of school trustees the reports required to be made by treasurers of township land commissioners, give bond as required by treasurers of township land commissioners, and perform the duties and exercise the powers of treasurers of township land commissioners; (iv) the regional board of school trustees shall designate in the manner provided by Section 8-7, insofar as applicable, a depository for its treasurer, and the proceeds of all rents, issues and profits from the common school lands and township loanable funds of that township shall be deposited and held in the account maintained for those purposes with that depository and shall be expended and distributed therefrom as provided in Section 15-24 and other applicable provisions of this Code; and (v) whenever there is vested in the trustees of schools of a township at the time that office is abolished under this subsection the legal title to any school buildings or school sites used or occupied for school purposes by any elementary school, high school or unit school district subject to the jurisdiction and authority of those trustees of school at the time that office is abolished, the legal title to those school buildings and school sites shall be deemed transferred by operation of law to and invested in the school board of that school district, in its corporate capacity Section 7-28, the same to be held, sold, exchanged leased or otherwise transferred in accordance with applicable provisions of this Code.

(d) Notwithstanding Section 2-3.25g of this Code, a waiver of a mandate established under this Section may not be requested.

(Source: P.A. 91-269, eff. 7-23-99; 92-448, eff. 8-21-01.)

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.

On motion of Senator del Valle, **House Bill No. 756** was recalled from the order of third reading to the order of second reading.

Senator del Valle offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 756 by replacing everything after the enacting clause with the following:

"Section 5. The Capital Development Board Act is amended by changing Section 9.04 as follows:

(20 ILCS 3105/9.04) (from Ch. 127, par. 779.04)

Sec. 9.04. To succeed to and exercise the rights, powers and duties which have been vested in the School Building Commission by Article 35 (now repealed) of the ~~the~~ School Code.

(Source: P.A. 77-1995.)

Section 10. The Building Authority Act is amended by changing Sections 3, 4, 5, and 9 as follows:

(20 ILCS 3110/3) (from Ch. 127, par. 213.3)

Sec. 3. Duties. The Authority shall make thorough and continuous studies and investigations of the following building needs of the State of Illinois as they may from time to time develop:

(a) Office structures, recreational facilities, fixed equipment of any kind, electric, gas, steam, water

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and sewer utilities, motor parking facilities, hospitals, penitentiaries and facilities of every kind and character, other than movable equipment, considered by the Authority necessary or convenient for the efficient operation of any unit which is used by any officer, department, board, commission or other agency of the State.

(b) Buildings and other facilities intended for use as classrooms, laboratories, libraries, student residence halls, instructional and administrative facilities for students, faculty, officers, and employees, and motor vehicle parking facilities and fixed equipment for any institution or unit under the control of 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, the School Building Commission or any public community college district board.

(c) School sites, buildings and fixed equipment to meet the needs of school districts unable to provide such facilities because of lack of funds and constitutional bond limitations, whenever any General Assembly has declared the acquisition of sites, construction of buildings and installation of fixed equipment for such school districts to be in the public interest, and allocations of said declarations shall be made as provided in Section 5 of this Act.

Whenever the General Assembly declares by law that it is in the public interest for the Authority to acquire any real estate, construct, complete and remodel buildings, and install fixed equipment in buildings and other facilities for public community college districts, or for school districts ~~that qualify under Article 35 of The School Code, as amended or as may hereafter be amended,~~ the amount of any declaration to be allocated to any public community college district shall be determined by the Illinois Community College Board, and the amount of any declaration to be allocated to any school district ~~School District qualifying under Article 35 of The School Code~~ shall be determined by the School Building Commission or its successor, unless otherwise provided by law.

(Source: P.A. 89-4, eff. 1-1-96.)

(20 ILCS 3110/4) (from Ch. 127, par. 213.4)

Sec. 4. Any department, board, commission, agency or officer of this State or 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, the School Building Commission (or its successor), or any public community college district board, may transfer jurisdiction of or title to any property under its or his control to the Authority when such transfer is approved in writing by the Governor as being advantageous to the State.

(Source: P.A. 89-4, eff. 1-1-96.)

(20 ILCS 3110/5) (from Ch. 127, par. 213.5)

Sec. 5. Powers. To accomplish projects of the kind listed in Section 3 above, the Authority shall possess the following powers:

(a) Acquire by purchase or otherwise (including the power of condemnation in the manner provided for the exercise of the right of eminent domain under Article VII of the Code of Civil Procedure, as amended), construct, complete, remodel and install fixed equipment in any and all buildings and other facilities as the General Assembly by law declares to be in the public interest.

Whenever the General Assembly has by law declared it to be in the public interest for the Authority to acquire any real estate, construct, complete, remodel and install fixed equipment in buildings and other facilities for public community college districts, the Director of the Department of Central Management Services shall, when requested by any such public community college district board, enter into a lease by and on behalf of and for the use of such public community college district board to the extent appropriations have been made by the General Assembly to pay the rents under the terms of such lease.

In the course of such activities, acquire property of any and every kind and description, whether real, personal or mixed, by gift, purchase or otherwise. It may also acquire real estate of the State of Illinois controlled by any officer, department, board, commission, or other agency of the State, or 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, the School Building Commission (or its successor), or

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any public community college district board, the jurisdiction of which is transferred by such officer, department, board, commission, or other agency ; or 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, or the School Building Commission (or its successor), or any public community college district board ; to the Authority. 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, or the School Building Commission (or its successor) and any public community college district board, respectively, shall prepare plans and specifications for and have supervision over any project to be undertaken by the Authority for their use. Before any other particular construction is undertaken, plans and specifications shall be approved by the lessee provided for under (b) below, except as indicated above.

(b) Execute leases of facilities and sites to, and charge for the use of any such facilities and sites by, any officer, department, board, commission or other agency of the State of Illinois, or the Director of the Department of Central Management Services when the Director is requested to, by and on behalf of, or for the use of, any officer, department, board, commission or other agency of the State of Illinois, or by 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, or the School Building Commission (or its successor) or any public community college district board. Such leases may be entered into contemporaneously with any financing to be done by the Authority and payments under the terms of the lease shall begin at any time after execution of any such lease.

(c) In the event of non-payment of rents reserved in such leases, maintain and operate such facilities and sites or execute leases thereof to others for any suitable purposes. Such leases to the officers, departments, boards, commissions, other agencies, the respective Boards of Trustees, or the School Building Commission (or its successor) or any public community college district board shall contain the provision that rents under such leases shall be payable solely from appropriations to be made by the General Assembly for the payment of such rent and any revenues derived from the operation of the leased premises.

(d) Borrow money and issue and sell bonds in such amount or amounts as the Authority may determine for the purpose of acquiring, constructing, completing or remodeling, or putting fixed equipment in any such facility; refund and refinance the same from time to time as often as advantageous and in the public interest to do so; and pledge any and all income of such Authority, and any revenues derived from such facilities, or any combination thereof, to secure the payment of such bonds and to redeem such bonds. All such bonds are subject to the provisions of Section 6 of this Act.

In addition to the permanent financing authorized by Sections 5 and 6 of this Act, the Illinois Building Authority may borrow money and issue interim notes in evidence thereof for any of the projects, or to perform any of the duties authorized under this Act, and in addition may borrow money and issue interim notes for planning, architectural and engineering, acquisition of land, and purchase of fixed equipment as follows:

1. Whenever the Authority considers it advisable and in the interests of the Authority to borrow funds temporarily for any of the purposes enumerated in this Section, the Authority may from time to time, and pursuant to appropriate resolution, issue interim notes to evidence such borrowings including funds for the payment of interest on such borrowings and funds for all necessary and incidental expenses in connection with any of the purposes provided for by this Section and this Act until the date of the permanent financing. Any resolution authorizing the issuance of such notes shall describe the project to be undertaken and shall specify the principal amount, rate of interest (not exceeding the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract,) and maturity date, but not to exceed 5 years from date of issue, and such other terms as may be specified in such resolution; however, time of payment of any such notes may be extended for a period of not exceeding 3 years from the maturity date thereof.

The Authority may provide for the registration of the notes in the name of the owner either as to principal alone, or as to both principal and interest, on such terms and conditions as the

Authority may determine by the resolution authorizing their issue. The notes shall be issued from time to time by the Authority as funds are borrowed, in the manner the Authority may determine. Interest on the notes may be made payable semiannually, annually or at maturity. The notes may be made redeemable, prior to maturity, at the option of the Authority, in the manner and upon the terms fixed by the resolution authorizing their issuance. The notes may be executed in the name of the Authority by the Chairman of the Authority or by any other officer or officers of the Authority as the Authority by resolution may direct, shall be attested by the Secretary or such other officer or officers of the Authority as the Authority may by resolution direct, and be sealed with the Authority's corporate seal. All such notes and the interest thereon may be secured by a pledge of any income and revenue derived by the Authority from the project to be undertaken with the proceeds of the notes and shall be payable solely from such income and revenue and from the proceeds to be derived from the sale of any revenue bonds for permanent financing authorized to be issued under Sections 5 and 6 of this Act, and from the property acquired with the proceeds of the notes.

Contemporaneously with the issue of revenue bonds as provided by this Act, all interim notes, even though they may not then have matured, shall be paid, both principal and interest to date of payment, from the funds derived from the sale of revenue bonds for the permanent financing and such interim notes shall be surrendered and canceled.

2. The Authority, in order further to secure the payment of the interim notes, is, in addition to the foregoing, authorized and empowered to make any other or additional covenants, terms and conditions not inconsistent with the provisions of subparagraph (a) of this Section, and do any and all acts and things as may be necessary or convenient or desirable in order to secure payment of its interim notes, or in the discretion of the Authority, as will tend to make the interim notes more acceptable to lenders, notwithstanding that the covenants, acts or things may not be enumerated herein; however, nothing contained in this subparagraph shall authorize the Authority to secure the payment of the interim notes out of property or facilities, other than the facilities acquired with the proceeds of the interim notes, and any net income and revenue derived from the facilities and the proceeds of revenue bonds as hereinabove provided.

(e) Convey property, without charge, to the State or to the appropriate corporate agency of the State or to any public community college district board if and when all debts which have been secured by the income from such property have been paid.

(f) Enter into contracts regarding any matter connected with any corporate purpose within the objects and purposes of this Act.

(g) Employ agents and employees necessary to carry out the duties and purposes of the Authority.

(h) Adopt all necessary by-laws, rules and regulations for the conduct of the business and affairs of the Authority, and for the management and use of facilities and sites acquired under the powers granted by this Act.

(i) Have and use a common seal and alter the same at pleasure.

The Interim notes shall constitute State debt of the State of Illinois within the meaning of any of the provisions of the Constitution and statutes of the State of Illinois.

No member, officer, agent or employee of the Authority, nor any other person who executes interim notes, shall be liable personally by reason of the issuance thereof.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 89-4, eff. 1-1-96.)

(20 ILCS 3110/9) (from Ch. 127, par. 213.9)

Sec. 9. Limitation on disbursements. The Authority shall keep account of the gross total income derived from each separate project or any combination thereof undertaken pursuant to this Act. Disbursements from a given account in The Public Building Fund shall be ordered by the Authority only for the payment of (1) the principal of and interest on the bonds issued for each project, or combination thereof, and (2) any other purposes set forth in the resolution authorizing the issuance of such bonds.

An accurate record shall be kept of the rental payments under each lease entered into by the Authority and any officer, department, board, commission or other agency of the State of Illinois, the Director of

the Department of Central Management Services, 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, the School Building Commission (or its successor), or any public community college district board, and when the rentals applicable to each project or facility, or any combination thereof, constructed, completed, remodeled, maintained and equipped, have been paid in (1) amounts sufficient to amortize and pay the principal of and interest upon the total principal amount of bonds of the Authority issued to pay the cost of each project or facility, including maintenance and operation expenses and that proportion of the administrative expense of the Authority as provided for by each lease, or (2) amounts which when invested in direct obligations of the United States of America are, together with earnings thereon, sufficient to amortize and pay the principal of and interest upon the total principal amount of bonds of the Authority issued to pay the cost of each project or facility, including maintenance and operation expenses and that proportion of the administrative expense of the Authority as provided for by each lease, the property shall be conveyed without charge to the lessee. (Source: P.A. 89-4, eff. 1-1-96.)

Section 15. The School Code is amended by changing Sections 2-3.12, 2-3.62, 7-03, 7-14, 7A-11, 11A-12, 11B-11, 11D-9, and 34-74 as follows:

(105 ILCS 5/2-3.12) (from Ch. 122, par. 2-3.12)

Sec. 2-3.12. School building code. To prepare for school boards with the advice of the Department of Public Health, the Capital Development Board, and the State Fire Marshal a school building code that will conserve the health and safety and general welfare of the pupils and school personnel and others who use public school facilities.

The document known as "Efficient and Adequate Standards for the Construction of Schools" applies only to temporary school facilities, new school buildings, and additions to existing schools whose construction contracts are awarded after July 1, 1965. On or before July 1, 1967, each school board shall have its school district buildings that were constructed prior to January 1, 1955, surveyed by an architect or engineer licensed in the State of Illinois as to minimum standards necessary to conserve the health and safety of the pupils enrolled in the school buildings of the district. Buildings constructed between January 1, 1955 and July 1, 1965, not owned by the State of Illinois, shall be surveyed by an architect or engineer licensed in the State of Illinois beginning 10 years after acceptance of the completed building by the school board. Buildings constructed between January 1, 1955 and July 1, 1955 and previously exempt under the provisions of Section 35-27 (now repealed) shall be surveyed prior to July 1, 1977 by an architect or engineer licensed in the State of Illinois. The architect or engineer, using the document known as "Building Specifications for Health and Safety in Public Schools" as a guide, shall make a report of the findings of the survey to the school board, giving priority in that report to fire safety problems and recommendations thereon if any such problems exist. The school board of each district so surveyed and receiving a report of needed recommendations to be made to improve standards of safety and health of the pupils enrolled has until July 1, 1970, or in case of buildings not owned by the State of Illinois and completed between January 1, 1955 and July 1, 1965 or in the case of buildings previously exempt under the provisions of Section 35-27 has a period of 3 years after the survey is commenced, to effectuate those recommendations, giving first attention to the recommendations in the survey report having priority status, and is authorized to levy the tax provided for in Section 17-2.11, according to the provisions of that Section, to make such improvements. School boards unable to effectuate those recommendations prior to July 1, 1970, on July 1, 1980 in the case of buildings previously exempt under the provisions of Section 35-27, may petition the State Superintendent of Education upon the recommendation of the Regional Superintendent for an extension of time. The extension of time may be granted by the State Superintendent of Education for a period of one year, but may be extended from year to year provided substantial progress, in the opinion of the State Superintendent of Education, is being made toward compliance. However, for fire protection issues, only one one-year extension may be made, and no other provision of this Code or an applicable code may supersede this requirement. For routine inspections, fire officials shall provide written notice to the principal of the school to schedule a mutually agreed upon time for the fire safety check. However, no more than 2 routine inspections may be made in a calendar year.

Within 2 years after the effective date of this amendatory Act of 1983, and every 10 years thereafter, or at such other times as the State Board of Education deems necessary or the regional superintendent so orders, each school board subject to the provisions of this Section shall again survey its school buildings

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and effectuate any recommendations in accordance with the procedures set forth herein. An architect or engineer licensed in the State of Illinois is required to conduct the surveys under the provisions of this Section and shall make a report of the findings of the survey titled "safety survey report" to the school board. The school board shall approve the safety survey report, including any recommendations to effectuate compliance with the code, and submit it to the Regional Superintendent. The Regional Superintendent shall render a decision regarding approval or denial and submit the safety survey report to the State Superintendent of Education. The State Superintendent of Education shall approve or deny the report including recommendations to effectuate compliance with the code and, if approved, issue a certificate of approval. Upon receipt of the certificate of approval, the Regional Superintendent shall issue an order to effect any approved recommendations included in the report. Items in the report shall be prioritized. Urgent items shall be considered as those items related to life safety problems that present an immediate hazard to the safety of students. Required items shall be considered as those items that are necessary for a safe environment but present less of an immediate hazard to the safety of students. Urgent and required items shall reference a specific rule in the code authorized by this Section that is currently being violated or will be violated within the next 12 months if the violation is not remedied. The school board of each district so surveyed and receiving a report of needed recommendations to be made to maintain standards of safety and health of the pupils enrolled shall effectuate the correction of urgent items as soon as achievable to ensure the safety of the students, but in no case more than one year after the date of the State Superintendent of Education's approval of the recommendation. Required items shall be corrected in a timely manner, but in no case more than 5 years from the date of the State Superintendent of Education's approval of the recommendation. Once each year the school board shall submit a report of progress on completion of any recommendations to effectuate compliance with the code. For each year that the school board does not effectuate any or all approved recommendations, it shall petition the Regional Superintendent and the State Superintendent of Education detailing what work was completed in the previous year and a work plan for completion of the remaining work. If in the judgement of the Regional Superintendent and the State Superintendent of Education substantial progress has been made and just cause has been shown by the school board, the petition for a one year extension of time may be approved.

As soon as practicable, but not later than 2 years after the effective date of this amendatory Act of 1992, the State Board of Education shall combine the document known as "Efficient and Adequate Standards for the Construction of Schools" with the document known as "Building Specifications for Health and Safety in Public Schools" together with any modifications or additions that may be deemed necessary. The combined document shall be known as the "Health/Life Safety Code for Public Schools" and shall be the governing code for all facilities that house public school students or are otherwise used for public school purposes, whether such facilities are permanent or temporary and whether they are owned, leased, rented, or otherwise used by the district. Facilities owned by a school district but that are not used to house public school students or are not used for public school purposes shall be governed by separate provisions within the code authorized by this Section.

The 10 year survey cycle specified in this Section shall continue to apply based upon the standards contained in the "Health/Life Safety Code for Public Schools", which shall specify building standards for buildings that are constructed prior to the effective date of this amendatory Act of 1992 and for buildings that are constructed after that date.

The "Health/Life Safety Code for Public Schools" shall be the governing code for public schools; however, the provisions of this Section shall not preclude inspection of school premises and buildings pursuant to Section 9 of the Fire Investigation Act, provided that the provisions of the "Health/Life Safety Code for Public Schools", or such predecessor document authorized by this Section as may be applicable are used, and provided that those inspections are coordinated with the Regional Superintendent having jurisdiction over the public school facility. Nothing in this Section shall be construed to prohibit a local fire department, fire protection district, or the Office of the State Fire Marshal from conducting a fire safety check in a public school. Upon being notified by a fire official that corrective action must be taken to resolve a violation, the school board shall take corrective action within one year. However, violations that present imminent danger must be addressed immediately.

Any agency having jurisdiction beyond the scope of the applicable document authorized by this Section may issue a lawful order to a school board to effectuate recommendations, and the school board receiving the order shall certify to the Regional Superintendent and the State Superintendent of Education when it has complied with the order.

The State Board of Education is authorized to adopt any rules that are necessary relating to the administration and enforcement of the provisions of this Section. The code authorized by this Section shall apply only to those school districts having a population of less than 500,000 inhabitants.

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(Source: P.A. 92-593, eff. 1-1-03.)

(105 ILCS 5/2-3.62) (from Ch. 122, par. 2-3.62)

Sec. 2-3.62. Educational Service Centers.

(a) A regional network of educational service centers shall be established by the State Board of Education to coordinate and combine existing services in a manner which is practical and efficient and to provide new services to schools as provided in this Section. Services to be made available by such centers shall include the planning, implementation and evaluation of:

(1) (blank);

(2) computer technology education including the evaluation, use and application of state-of-the-art technology in computer software as provided in Section ~~2-3.117 of this Code 2-3.43~~;

(3) mathematics, science and reading resources for teachers including continuing education, inservice training and staff development.

The centers may provide training, technical assistance, coordination and planning in other program areas such as school improvement, school accountability, career guidance, early childhood education, alcohol/drug education and prevention, family life - sex education, electronic transmission of data from school districts to the State, alternative education and regional special education, and telecommunications systems that provide distance learning. Such telecommunications systems may be obtained through the Department of Central Management Services pursuant to Section 405-270 of the Department of Central Management Services Law (20 ILCS 405/405-270). The programs and services of educational service centers may be offered to private school teachers and private school students within each service center area provided public schools have already been afforded adequate access to such programs and services.

The State Board of Education shall promulgate rules and regulations necessary to implement this Section. The rules shall include detailed standards which delineate the scope and specific content of programs to be provided by each Educational Service Center, as well as the specific planning, implementation and evaluation services to be provided by each Center relative to its programs. The Board shall also provide the standards by which it will evaluate the programs provided by each Center.

(b) Centers serving Class 1 county school units shall be governed by an 11-member board, 3 members of which shall be public school teachers nominated by the local bargaining representatives to the appropriate regional superintendent for appointment and no more than 3 members of which shall be from each of the following categories, including but not limited to superintendents, regional superintendents, school board members and a representative of an institution of higher education. The members of the board shall be appointed by the regional superintendents whose school districts are served by the educational service center. The composition of the board will reflect the revisions of this amendatory Act of 1989 as the terms of office of current members expire.

(c) The centers shall be of sufficient size and number to assure delivery of services to all local school districts in the State.

(d) From monies appropriated for this program the State Board of Education shall provide grants to qualifying Educational Service Centers applying for such grants in accordance with rules and regulations promulgated by the State Board of Education to implement this Section.

(e) The governing authority of each of the 18 regional educational service centers shall appoint a family life - sex education advisory board consisting of 2 parents, 2 teachers, 2 school administrators, 2 school board members, 2 health care professionals, one library system representative, and the director of the regional educational service center who shall serve as chairperson of the advisory board so appointed. Members of the family life - sex education advisory boards shall serve without compensation. Each of the advisory boards appointed pursuant to this subsection shall develop a plan for regional teacher-parent family life - sex education training sessions and shall file a written report of such plan with the governing board of their regional educational service center. The directors of each of the regional educational service centers shall thereupon meet, review each of the reports submitted by the advisory boards and combine those reports into a single written report which they shall file with the Citizens Council on School Problems prior to the end of the regular school term of the 1987-1988 school year.

(f) The 14 educational service centers serving Class I county school units shall be disbanded on the first Monday of August, 1995, and their statutory responsibilities and programs shall be assumed by the regional offices of education, subject to rules and regulations developed by the State Board of Education. The regional superintendents of schools elected by the voters residing in all Class I counties shall serve as the chief administrators for these programs and services. By rule of the State Board of Education, the 10 educational service regions of lowest population shall provide such services under cooperative agreements with larger regions.

(Source: P.A. 93-21, eff. 7-1-03.)

(105 ILCS 5/7-03) (from Ch. 122, par. 7-03)

Sec. 7-03. Limitation on application. The provisions of this Article shall not apply to the disconnection of territory from one high school district and the annexation of such territory to another high school district when the boundaries of such high school districts are changed under the provisions of Section 7C-1 (now repealed).

(Source: P.A. 85-1020.)

(105 ILCS 5/7-14) (from Ch. 122, par. 7-14)

Sec. 7-14. Bonded indebtedness-Tax rate.

(a) Except as provided in subsection (b), whenever the boundaries of any school district are changed by the annexation or detachment of territory, each such district as it exists on and after such action shall assume the bonded indebtedness, as well as financial obligations to the Capital Development Board with regard to rental payments pursuant to Section 35-15 of the School Code, of all the territory included therein after such change. The tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, except the County Clerk shall annually extend taxes against all the taxable property situated in the county and contained in each such district as it exists after the action. Notwithstanding the provisions of this subsection, if the boundaries of a school district are changed by annexation or detachment of territory after June 30, 1987, and prior to September 15, 1987, and if the school district to which territory is being annexed has no outstanding bonded indebtedness on the date such annexation occurs, then the annexing school district shall not be liable for any bonded indebtedness of the district from which the territory is detached, and the school district from which the territory is detached shall remain liable for all of its bonded indebtedness.

(b) Whenever a school district with bonded indebtedness has become dissolved under this Article and its territory annexed to another district, the annexing district or districts shall not, except by action pursuant to resolution of the school board of the annexing district prior to the effective date of the annexation, assume the bonded indebtedness of the dissolved district; nor, except by action pursuant to resolution of the school board of the dissolving district, shall the territory of the dissolved district assume the bonded indebtedness of the annexing district or districts. If the annexing district or districts do not assume the bonded indebtedness of the dissolved district, a tax rate for the bonded indebtedness shall be determined in the manner provided in Section 19-7, and the county clerk or clerks shall annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of the district as the boundaries existed at the time of the issuance of each bond issue regardless of whether the property is still contained in that same district at the time of the extension of the taxes by the county clerk or clerks.

(Source: P.A. 87-107; 87-1120; 87-1215; 88-45.)

(105 ILCS 5/7A-11) (from Ch. 122, par. 7A-11)

Sec. 7A-11. Assets, liabilities and bonded indebtedness - Tax rate.

(a) Upon the effective date of the change as provided in Section 7A-8, and subject to the provisions of subsection (b) of this Section 7A-11, the newly created elementary school district shall receive all the assets and assume all the liabilities and obligations of the dissolved unit school district, including all the bonded indebtedness of the dissolved unit school district and its financial obligations to the Capital Development Board with regard to rental payments pursuant to Section 35-15.

(b) Notwithstanding the provisions of subsection (a) of this Section, upon the stipulation of the school board of the annexing high school district and either the school board of the unit school district prior to the effective date of its dissolution, or thereafter of the school board of the newly created elementary school district, and with the approval in either case of the regional superintendent of schools of the educational service region in which the territory described in the petition filed under this Article or the greater portion of the equalized assessed valuation of such territory is situated, the assets, liabilities and obligations of the dissolved unit school district, including all the bonded indebtedness of the dissolved unit school district and its financial obligations to the Capital Development Board with regard to rental payments pursuant to Section 35-15, may be divided and assumed between and by such newly created elementary school district and the annexing high school district in accordance with the terms and provisions of such stipulation and approval. In such event, the provisions of Section 19-29, as now or hereafter amended, shall be applied to determine the debt incurring power of the newly created elementary school district and of the contiguous annexing high school district.

(c) Without regard to whether the receipt of assets and the assumption of liabilities and obligations of the dissolved unit school district is determined pursuant to subsection (a) or (b) of this Section, the tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7; and notwithstanding the creation of such new elementary school district, the county clerk or clerks shall

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annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of the dissolved unit school district as such boundaries existed at the time of the issuance of each such bond issue, regardless of whether such property was still contained in that unit school district at the time of its dissolution and regardless of whether such property is contained in the newly created elementary school district at the time of the extension of such taxes by the county clerk or clerks.

(Source: P.A. 86-1028.)

(105 ILCS 5/11A-12) (from Ch. 122, par. 11A-12)

Sec. 11A-12. Bonded indebtedness - Tax rate.

(a) Except as provided in subsection (b), whenever a new district is created under the provisions of this Article, each such district as it exists on and after such action shall assume the financial obligations to the Capital Development Board, with regard to rental payments or otherwise pursuant to ~~Section 35-15 of the School Code and~~ the Capital Development Board Act, of all the territory included therein after such change, and the outstanding bonded indebtedness shall be treated as hereinafter provided in this Section and in Section 19-29 of this Act. The tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, and notwithstanding the creation of any such new district, the County Clerk or Clerks shall annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of the district as such boundaries existed at the time of the issuance of each such bond issue regardless of whether such property is still contained in that same district at the time of the extension of such taxes by the County Clerk or Clerks.

(b) Whenever the entire territory of 2 or more school districts is organized into a community unit school district pursuant to a petition filed under this Article, the petition may provide that the entire territory of the new community unit school district shall assume the bonded indebtedness of the previously existing school district. In that case the tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, except the County Clerk shall annually extend taxes for each outstanding bond issue against all the taxable property situated in the new community unit school district as it exists after the organization.

(Source: P.A. 88-555, eff. 7-27-94.)

(105 ILCS 5/11B-11) (from Ch. 122, par. 11B-11)

Sec. 11B-11. Bonded indebtedness - Tax rate. Whenever a new district is created under any of the provisions of this Act, each such district as it exists on and after such action shall assume the financial obligations to the Capital Development Board, with regard to rental payments or otherwise pursuant to ~~Section 35-15 of "The School Code" and~~ the Capital Development Board Act, of all the territory included therein after such change, and the outstanding bonded indebtedness shall be treated as hereinafter provided in this Section and in Section 19-29 of this Act. The tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, and notwithstanding the creation of any such new district, the County Clerk or Clerks shall annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of the district as such boundaries existed at the time of the issuance of each such bond issue regardless of whether such property is still contained in that same district at the time of the extension of such taxes by the County Clerk or Clerks.

(Source: P.A. 83-686.)

(105 ILCS 5/11D-9) (from Ch. 122, par. 11D-9)

Sec. 11D-9. Bonded indebtedness; tax rate. Whenever new districts are created under any of the provisions of this Article, each such district as it exists on and after such action shall assume the financial obligations to the Capital Development Board, with regard to rental payments or otherwise pursuant to ~~Section 35-15 of The School Code and~~ the Capital Development Board Act, of all the territory included therein after such change, and the outstanding bonded indebtedness shall be treated as provided in this Section and in Section 19-29 of this Act. The tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, and notwithstanding the creation of any such new districts, the county clerk or clerks shall annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of each district as such boundaries existed at the time of the issuance of each such bond issue, regardless of whether such property is still contained in that same district at the time of the extension of such taxes by the county clerk or clerks.

(Source: P.A. 86-1334.)

(105 ILCS 5/34-74) (from Ch. 122, par. 34-74)

Sec. 34-74. Custody of school moneys. Except as provided in ~~Article Articles~~ 34A and 34B, and Section 34-29.2 of this Code, all moneys raised by taxation for school purposes, or received from the

state common school fund, or from any other source for school purposes, shall be held by the city treasurer, ex-officio, as school treasurer, in separate funds for school purposes, subject to the order of the board upon (i) its warrants signed by its president and secretary and countersigned by the mayor and city comptroller or (ii) its checks, as defined in Section 3-104 of the Uniform Commercial Code, signed by its president, secretary, and comptroller and countersigned by the mayor and city comptroller.

(Source: P.A. 91-151, eff. 1-1-00.)

(105 ILCS 5/1A-6 rep.)
 (105 ILCS 5/2-3.35 rep.)
 (105 ILCS 5/2-3.37 rep.)
 (105 ILCS 5/2-3.43 rep.)
 (105 ILCS 5/2-3.52 rep.)
 (105 ILCS 5/2-3.54 rep.)
 (105 ILCS 5/2-3.55 rep.)
 (105 ILCS 5/2-3.55A rep.)
 (105 ILCS 5/2-3.67 rep.)
 (105 ILCS 5/2-3.69 rep.)
 (105 ILCS 5/2-3.72 rep.)
 (105 ILCS 5/2-3.82 rep.)
 (105 ILCS 5/2-3.90 rep.)
 (105 ILCS 5/2-3.91 rep.)
 (105 ILCS 5/2-3.106 rep.)
 (105 ILCS 5/2-3.114 rep.)
 (105 ILCS 5/Art. 7C rep.)
 (105 ILCS 5/10-20.16 rep.)
 (105 ILCS 5/10-20.25 rep.)
 (105 ILCS 5/10-20.25a rep.)
 (105 ILCS 5/prec. Sec. 13-1 heading rep.)
 (105 ILCS 5/13-1 rep.)
 (105 ILCS 5/13-2 rep.)
 (105 ILCS 5/13-3 rep.)
 (105 ILCS 5/13-4 rep.)
 (105 ILCS 5/13-5 rep.)
 (105 ILCS 5/13-6 rep.)
 (105 ILCS 5/13-7 rep.)
 (105 ILCS 5/13-8 rep.)
 (105 ILCS 5/13-9 rep.)
 (105 ILCS 5/14-3.02 rep.)
 (105 ILCS 5/14-3.03 rep.)
 (105 ILCS 5/17-2.6 rep.)
 (105 ILCS 5/29-6.4 rep.)
 (105 ILCS 5/29-17 rep.)
 (105 ILCS 5/Art. 34B rep.)
 (105 ILCS 5/Art. 35 rep.)

Section 90. The School Code is amended by repealing Sections 1A-6, 2-3.35, 2-3.37, 2-3.43, 2-3.52, 2-3.54, 2-3.55, 2-3.55A, 2-3.67, 2-3.69, 2-3.72, 2-3.82, 2-3.90, 2-3.91, 2-3.106, 2-3.114, 10-20.16, 10-20.25, 10-20.25a, 13-1, 13-2, 13-3, 13-4, 13-5, 13-6, 13-7, 13-8, 13-9, 14-3.02, 14-3.03, 17-2.6, 29-6.4, 29-17, Articles 7C, 34B, and 35, and the heading preceding Section 13-1.

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.

On motion of Senator J. Sullivan, **House Bill No. 758** was recalled from the order of third reading to the order of second reading.

Senator J. Sullivan offered the following amendment and moved its adoption:

[May 12, 2004]

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 758 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 11D-6 as follows:

(105 ILCS 5/11D-6) (from Ch. 122, par. 11D-6)

Sec. 11D-6. Passage requirements. If a majority of the electors voting at such election in each affected school district vote in favor of the proposition, the proposition shall be deemed to have passed. Unless the board of education of a new high school or elementary school district is elected at the same election at which the proposition establishing that district is deemed to have passed, the regional superintendent of schools shall order an election to be held on the next regularly scheduled election date for the purpose of electing a board of education for that district. In either event, the board of education elected for each of the new high school and elementary school districts created under this Article shall consist of 7 members, which shall have the terms and the powers and duties of school boards as defined in Article 10. Election of board members for the new high school district may be (i) on an at-large basis, (ii) with board members representing each of the forming elementary school districts, or (iii) a combination of both. The format for the election of the new high school board must be defined in the petition submitted to the voters. When 4 or more unit school districts are involved and a combination of board members representing each of the forming elementary school districts and at-large formats are used, one member must be elected from each of the forming elementary school districts. The remaining members may be elected on an at-large basis, provided that none of the underlying elementary school districts have a majority on the resulting high school board. When 3 unit school districts are involved and a combination of board members representing each of the forming elementary school districts and at-large formats are used, 2 members must be elected from each of the forming elementary school districts. The remaining member must be elected at large. Nomination papers filed under this Section are not valid unless the candidate named therein files with the regional superintendent a receipt from the county clerk showing that the candidate has filed a statement of economic interests as required by the Illinois Governmental Ethics Act. Such receipt shall be so filed either previously during the calendar year in which his nomination papers were filed or within the period for the filing of nomination papers in accordance with the general election law. The regional superintendent shall perform the election duties assigned by law to the secretary of a school board for such election, and shall certify the officers and candidates therefor pursuant to the general election law.

(Source: P.A. 86-1334; 87-10.)

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.

On motion of Senator Clayborne, **House Bill No. 826** 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

AMENDMENT NO. 1 . Amend House Bill 826 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 8-11-6a and 11-74.3-3 and by adding Sections 11-74.3-5 and 11-74.3-6 as follows:

(65 ILCS 5/8-11-6a) (from Ch. 24, par. 8-11-6a)

Sec. 8-11-6a. Home rule municipalities; preemption of certain taxes. Except as provided in Sections 8-11-1, 8-11-5, 8-11-6, ~~and~~ 8-11-6b ~~,~~ and 11-74.3-6 on and after September 1, 1990, no home rule municipality has the authority to impose, pursuant to its home rule authority, a retailer's occupation tax, service occupation tax, use tax, sales tax or other tax on the use, sale or purchase of tangible personal property based on the gross receipts from such sales or the selling or purchase price of said tangible personal property. Notwithstanding the foregoing, this Section does not preempt any home rule imposed tax such as the following: (1) a tax on alcoholic beverages, whether based on gross receipts, volume sold

[May 12, 2004]

or any other measurement; (2) a tax based on the number of units of cigarettes or tobacco products (provided, however, that a home rule municipality that has not imposed a tax based on the number of units of cigarettes or tobacco products before July 1, 1993, shall not impose such a tax after that date); (3) a tax, however measured, based on the use of a hotel or motel room or similar facility; (4) a tax, however measured, on the sale or transfer of real property; (5) a tax, however measured, on lease receipts; (6) a tax on food prepared for immediate consumption and on alcoholic beverages sold by a business which provides for on premise consumption of said food or alcoholic beverages; or (7) other taxes not based on the selling or purchase price or gross receipts from the use, sale or purchase of tangible personal property. This Section is not intended to affect any existing tax on food and beverages prepared for immediate consumption on the premises where the sale occurs, or any existing tax on alcoholic beverages, or any existing tax imposed on the charge for renting a hotel or motel room, which was in effect January 15, 1988, or any extension of the effective date of such an existing tax by ordinance of the municipality imposing the tax, which extension is hereby authorized, in any non-home rule municipality in which the imposition of such a tax has been upheld by judicial determination, nor is this Section intended to preempt the authority granted by Public Act 85-1006. This Section is a limitation, pursuant to subsection (g) of Section 6 of Article VII of the Illinois Constitution, on the power of home rule units to tax.

(Source: P.A. 91-51, eff. 6-30-99.)

(65 ILCS 5/11-74.3-3) (from Ch. 24, par. 11-74.3-3)

Sec. 11-74.3-3. In carrying out a business district development or redevelopment plan, the corporate authorities of each municipality shall have the following powers:

- (1) To approve all development and redevelopment proposals for a business district.
- (2) To exercise the use of eminent domain for the acquisition of real and personal property for the purpose of a development or redevelopment project.
- (3) To acquire, manage, convey or otherwise dispose of real and personal property according to the provisions of a development or redevelopment plan.
- (4) To apply for and accept capital grants and loans from the United States and the State of Illinois, or any instrumentality of the United States or the State, for business district development and redevelopment.
- (5) To borrow funds as it may be deemed necessary for the purpose of business district development and redevelopment, and in this connection issue such obligation or revenue bonds as it shall be deemed necessary, subject to applicable statutory limitations.
- (6) To enter into contracts with any public or private agency or person.
- (7) To sell, lease, trade or improve real property in connection with business district development and redevelopment plans.
- (8) To employ all such persons as may be necessary for the planning, administration and implementation of business district plans.
- (9) To expend such public funds as may be necessary for the planning, execution and implementation of the business district plans.
- (10) To establish by ordinance or resolution procedures for the planning, execution and implementation of business district plans.
- (11) To create a Business District Development and Redevelopment Commission to act as agent for the municipality for the purposes of business district development and redevelopment.
- (12) To impose a retailers' occupation tax and a service occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for business district project costs as set forth in the business district plan approved by the municipality.
- (13) To impose a hotel operators' occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for the business district project costs as set forth in the business district plan approved by the municipality.
- (14) To issue obligations in one or more series bearing interest at rates determined by the corporate authorities of the municipality by ordinance and secured by the business district tax allocation fund set forth in Section 11-74.3-6 for the business district to provide for the payment of business district project costs.

This amendatory Act of the 91st General Assembly is declarative of existing law and is not a new enactment.

(Source: P.A. 91-418, eff. 1-1-00.)

(65 ILCS 5/11-74.3-5 new)

Sec. 11-74.3-5. Business district; additional procedures for designation of district and approval of development or redevelopment plan. If the corporate authorities of a municipality desire to impose a tax

by ordinance pursuant to subsection (12) or (13) of Section 11-74.3-3, the following additional procedures shall apply to the designation of the business district and the approval of the business district development or redevelopment plan:

(1) The corporate authorities of the municipality shall hold public hearings at least one week prior to designation of the business district and approval of the business district development or redevelopment plan.

(2) The area proposed to be designated as a business district must be contiguous and must include only parcels of real property directly and substantially benefited by the proposed business district development or redevelopment plan.

(3) The corporate authorities of the municipality shall make a formal finding of the following: (i) the business district is a blighted area that, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire or other causes, or any combination of those factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use; and (ii) the business district on the whole has not been subject to growth and development through investment by private enterprises or would not reasonably be anticipated to be developed or redeveloped without the adoption of the business district development or redevelopment plan.

(4) The proposed business district development or redevelopment plan shall set forth in writing: (i) a specific description of the proposed boundaries of the district, including a map illustrating the boundaries; (ii) a general description of each project proposed to be undertaken within the business district, including a description of the approximate location of each project; (iii) the name of the proposed business district; (iv) the estimated business district project costs; (v) the anticipated source of funds to pay business district project costs; (vi) the anticipated type and terms of any obligations to be issued; and (vii) the rate of any tax to be imposed pursuant to subsection (12) or (13) of Section 11-74.3-3 and the period of time for which the tax shall be imposed.

(65 ILCS 5/11-74.3-6 new)

Sec. 11-74.3-6. Business district revenue and obligations.

(a) If the corporate authorities of a municipality have approved a business district development or redevelopment plan and have elected to impose a tax by ordinance pursuant to subsections (b), (c), or (d) of this Section, each year after the date of the approval of the ordinance and until all business district project costs and all municipal obligations financing the business district project costs, if any, have been paid in accordance with the business district development or redevelopment plan, but in no event longer than 23 years after the date of adoption of the ordinance approving the business district development or redevelopment plan, all amounts generated by the retailers' occupation tax and service occupation tax shall be collected and the tax shall be enforced by the Department of Revenue in the same manner as all retailers' occupation taxes and service occupation taxes imposed in the municipality imposing the tax and all amounts generated by the hotel operators' occupation tax shall be collected and the tax shall be enforced by the municipality in the same manner as all hotel operators' occupation taxes imposed in the municipality imposing the tax. The corporate authorities of the municipality shall deposit the proceeds of the taxes imposed under subsections (b), (c), and (d) into a special fund held by the corporate authorities of the municipality called the Business District Tax Allocation Fund for the purpose of paying business district project costs and obligations incurred in the payment of those costs.

(b) The corporate authorities of a municipality that has established a business district under this Division 74.3 may, by ordinance or resolution, impose a Business District Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the business district at a rate not to exceed 1% of the gross receipts from the sales made in the course of such business, to be imposed only in 0.25% increments. The tax may not be imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

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 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 under any ordinance or resolution enacted pursuant to this

subsection without registering separately with the Department under such ordinance or resolution or under this subsection. The Department of Revenue shall have full power to administer and enforce this subsection; to collect all taxes and penalties due under this subsection in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty under this subsection. In the administration of, and compliance with, this subsection, the Department and persons who are subject to this subsection shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 1, 1a through 1o, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c through 2h, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14 of the Retailers' Occupation Tax Act and all provisions of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under this subsection may reimburse themselves for their seller's tax liability under this subsection by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that sellers are required to collect under the 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 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 business district retailers' occupation tax fund.

The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes, penalties, and interest collected under this subsection for deposit into the business district retailers' occupation tax fund. 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 named municipalities from the business district retailers' occupation tax fund, the municipalities to be those from which retailers have paid taxes or penalties under this subsection to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected under this subsection 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 an amount equal to the amount of refunds made during the second preceding calendar month by the Department, less 2% of that amount, which shall be deposited into the Tax Compliance and Administration Fund and shall be used by the Department, subject to appropriation, to cover the costs of the Department in administering and enforcing the provisions of this subsection, on behalf of such municipality, and not including 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 municipality. Within 10 days after receipt by the Comptroller of the disbursement certification to the municipalities provided for in this subsection 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 the directions contained in the certification. The proceeds of the tax paid to municipalities under this subsection shall be deposited into the Business District Tax Allocation Fund by the municipality.

An ordinance or resolution imposing or discontinuing the tax under this subsection or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department, if all other requirements of this subsection are met, shall proceed to administer and enforce this subsection as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon, if all other requirements of this subsection are met, the Department shall proceed to administer and enforce this subsection as of the first day of January next following the adoption and filing.

The Department of Revenue shall not administer or enforce an ordinance imposing, discontinuing, or changing the rate of the tax under this subsection, until the municipality also provides, in the manner prescribed by the Department, the boundaries of the business district in such a way that the Department can determine by its address whether a business is located in the business district. The municipality must provide this boundary information to the Department on or before April 1 for administration and enforcement of the tax under this subsection by the Department beginning on the following July 1 and on or before October 1 for administration and enforcement of the tax under this subsection by the Department beginning on the following January 1. The Department of Revenue shall not administer or

enforce any change made to the boundaries of a business district until the municipality reports the boundary change to the Department in the manner prescribed by the Department. The municipality must provide this boundary change information to the Department on or before April 1 for administration and enforcement by the Department of the change beginning on the following July 1 and on or before October 1 for administration and enforcement by the Department of the change beginning on the following January 1. The retailers in the business district shall be responsible for charging the tax imposed under this subsection. If a retailer is incorrectly included or excluded from the list of those required to collect the tax under this subsection, both the Department of Revenue and the retailer shall be held harmless if they reasonably relied on information provided by the municipality.

A municipality that imposes the tax under this subsection must submit to the Department of Revenue any other information as the Department may require for the administration and enforcement of the tax.

When certifying the amount of a monthly disbursement to a municipality under this subsection, the Department shall increase or decrease the amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

Nothing in this subsection shall be construed to authorize the 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.

If a tax is imposed under this subsection (b), a tax shall also be imposed under subsection (c) of this Section.

(c) If a tax has been imposed under subsection (b), a Business District Service Occupation Tax shall also be imposed upon all persons engaged, in the business district, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the business district, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax shall be imposed at the same rate as the tax imposed in subsection (b) and shall not exceed 1% of the selling price of tangible personal property so transferred within the business district, to be imposed only in 0.25% increments. The tax may not be imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

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 certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit such registrant to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this subsection without registering separately with the Department under such ordinance or resolution or under this subsection. The Department of Revenue shall have full power to administer and enforce this subsection; to collect all taxes and penalties due under this subsection; 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 under this subsection. In the administration of, and compliance with this subsection, the Department and persons who are subject to this subsection shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms and employ the same modes of procedure as are prescribed in Sections 2, 2a through 2d, 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 business district), 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 municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this tax may not be taken against any State tax), 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 municipality), the first paragraph of Section 15, and Sections 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all provisions 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 hereunder 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 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 such notification from the Department. Such refund shall be paid by the State Treasurer out of the business district retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes, penalties, and interest collected under this subsection for deposit into the business district retailers' occupation tax fund. 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 named municipalities from the business district retailers' occupation tax fund, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties under this subsection to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected under this subsection during the second preceding calendar month by the Department, less 2% of that amount, which shall be deposited into the Tax Compliance and Administration Fund and shall be used by the Department, subject to appropriation, to cover the costs of the Department in administering and enforcing the provisions of this subsection, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities, provided for in this subsection 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 the directions contained in such certification. The proceeds of the tax paid to municipalities under this subsection shall be deposited into the Business District Tax Allocation Fund by the municipality.

An ordinance or resolution imposing or discontinuing the tax under this subsection or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department, if all other requirements of this subsection are met, shall proceed to administer and enforce this subsection as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon, if all other conditions of this subsection are met, the Department shall proceed to administer and enforce this subsection as of the first day of January next following the adoption and filing.

The Department of Revenue shall not administer or enforce an ordinance imposing, discontinuing, or changing the rate of the tax under this subsection, until the municipality also provides, in the manner prescribed by the Department, the boundaries of the business district in such a way that the Department can determine by its address whether a business is located in the business district. The municipality must provide this boundary information to the Department on or before April 1 for administration and enforcement of the tax under this subsection by the Department beginning on the following July 1 and on or before October 1 for administration and enforcement of the tax under this subsection by the Department beginning on the following January 1. The Department of Revenue shall not administer or enforce any change made to the boundaries of a business district until the municipality reports the boundary change to the Department in the manner prescribed by the Department. The municipality must provide this boundary change information to the Department on or before April 1 for administration and enforcement by the Department of the change beginning on the following July 1 and on or before October 1 for administration and enforcement by the Department of the change beginning on the following January 1. The retailers in the business district shall be responsible for charging the tax imposed under this subsection. If a retailer is incorrectly included or excluded from the list of those required to collect the tax under this subsection, both the Department of Revenue and the retailer shall be held harmless if they reasonably relied on information provided by the municipality.

A municipality that imposes the tax under this subsection must submit to the Department of Revenue any other information as the Department may require for the administration and enforcement of the tax.

Nothing in this subsection shall be construed to authorize the 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 the State.

If a tax is imposed under this subsection (c), a tax shall also be imposed under subsection (b) of this Section.

(d) By ordinance, a municipality that has established a business district under this Division 74.3 may impose an occupation tax upon all persons engaged in the business district 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 1% of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the

business district, to be imposed only in 0.25% increments, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

The tax imposed by the municipality under this subsection and all civil penalties that may be assessed as an incident to that tax shall be collected and enforced by the municipality imposing the tax. The municipality shall have full power to administer and enforce this subsection, to collect all taxes and penalties due under this subsection, to dispose of taxes and penalties so collected in the manner provided in this subsection, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty under this subsection. In the administration of and compliance with this subsection, the municipality and persons who are subject to this subsection shall have the same rights, remedies, privileges, immunities, powers, and duties, shall be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and shall employ the same modes of procedure as are employed with respect to a tax adopted by the municipality under Section 8-3-14 of this Code.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their tax liability for that tax by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes imposed under the Hotel Operators' Occupation Tax Act, and with any other tax.

Nothing in this subsection 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.

The proceeds of the tax imposed under this subsection shall be deposited into the Business District Tax Allocation Fund.

(e) Obligations issued pursuant to subsection (14) of Section 11-74.3-3 shall be retired in the manner provided in the ordinance authorizing the issuance of those obligations by the receipts of taxes levied as authorized in subsections (12) and (13) of Section 11-74.3-3. The ordinance shall pledge all of the amounts in and to be deposited in the Business District Tax Allocation Fund to the payment of business district project costs and obligations. Obligations issued pursuant to subsection (14) of Section 11-74.3-3 may be sold at public or private sale at a price determined by the corporate authorities of the municipality and no referendum approval of the electors shall be required as a condition to the issuance of those obligations. The ordinance authorizing the obligations may require that the obligations contain a recital that they are issued pursuant to subsection (14) of Section 11-74.3-3 and this recital shall be conclusive evidence of their validity and of the regularity of their issuance. The corporate authorities of the municipality may also issue its obligations to refund, in whole or in part, obligations previously issued by the municipality under the authority of this Code, whether at or prior to maturity. All obligations issued pursuant to subsection (14) of Section 11-74.3-3 shall not be regarded as indebtedness of the municipality issuing the obligations for the purpose of any limitation imposed by law.

(f) When business district costs, including, without limitation, all municipal obligations financing business district project costs incurred under Section 11-74.3-3 have been paid, any surplus funds then remaining in the Business District Tax Allocation Fund shall be distributed to the municipal treasurer for deposit into the municipal general corporate fund. Upon payment of all business district project costs and retirement of obligations, but in no event more than 23 years after the date of adoption of the ordinance approving the business district development or redevelopment plan, the municipality shall adopt an ordinance immediately rescinding the taxes imposed pursuant to subsections (12) and (13) of Section 11-74.3-3.

Section 99. Effective date. This Act takes effect on January 1, 2005."

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.

On motion of Senator Link, **House Bill No. 827** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 827 by replacing everything after the enacting clause with the following:

[May 12, 2004]

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs

to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to

to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of

spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of

the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax

Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in

the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or

redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

- (A) an itemized list of estimated redevelopment project costs;
- (B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;
- (C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;
- (D) the sources of funds to pay costs;
- (E) the nature and term of the obligations to be issued;
- (F) the most recent equalized assessed valuation of the redevelopment project area;
- (G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;
- (H) a commitment to fair employment practices and an affirmative action plan;
- (I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and
- (J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

- (1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.
- (2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.
- (3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:
 - (A) if the ordinance was adopted before January 15, 1981, or
 - (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or
 - (C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or
 - (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason

County, or

- (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or
- (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or
- (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or
- (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or
- (I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or
- (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or
- (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or
- (L) if the ordinance was adopted in September 1988 by Sauk Village, or
- (M) if the ordinance was adopted in October 1993 by Sauk Village, or
- (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or
- (O) if the ordinance was adopted in March 1991 by the City of Centreville, or
- (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,
or
- (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or
- (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or
- (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or
- (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
- (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
- (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
- (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or
- (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,
or
- (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
- (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
- (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
- (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or -
- (CC) if the ordinance was adopted on January 19, 1988 by the City of Waukegan.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were

established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and

registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination

in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance

assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies

that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall

be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment

project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed

Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific

number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo,

or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on January 19, 1988 by the City of Waukegan and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Winkel, **House Bill No. 828** was recalled from the order of third reading to the order of second reading.

Senator Winkel offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 828 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs

to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are

so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community

planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development

occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is

prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:

(A) if the ordinance was adopted before January 15, 1981, or

(B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or

(C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or

(D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or

(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or

(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or

(H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or

(I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or

(J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or

(K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or

(L) if the ordinance was adopted in September 1988 by Sauk Village, or

(M) if the ordinance was adopted in October 1993 by Sauk Village, or

(N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or

(O) if the ordinance was adopted in March 1991 by the City of Centreville, or

(P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,

or

- (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or
 (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or
 (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or
 (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
 (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
 (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
 (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or
 (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,
 or
 (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
 (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
 (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
 (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of
 Markham, or -
(CC) if the ordinance was adopted on December 15, 1986 by the City of Urbana.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units

and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation

and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the

assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property

tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of

property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of

property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies

that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated

to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the

terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its

claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those

units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is

prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax

allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on December 15, 1986 by the City of Urbana and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

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All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Winkel, **House Bill No. 829** was recalled from the order of third reading to the order of second reading.

Senator Winkel offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 829 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the

[May 12, 2004]

removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard

or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration,

including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial

distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have

deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted,

the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:

- (A) if the ordinance was adopted before January 15, 1981, or
- (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or
- (C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or
- (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or
- (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or
- (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or
- (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or
- (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or
- (I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or
- (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or
- (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or
- (L) if the ordinance was adopted in September 1988 by Sauk Village, or
- (M) if the ordinance was adopted in October 1993 by Sauk Village, or
- (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or
- (O) if the ordinance was adopted in March 1991 by the City of Centerville, or
- (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,
or
- (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or
- (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or
- (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or
- (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
- (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
- (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
- (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or
- (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,
or
- (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
- (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
- (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
- (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or -
- (CC) if the ordinance was adopted on May 9, 1991 by the Village of Tilton.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment

project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita Tuition

Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include,

specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned

buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school,

road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment

project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the

[May 12, 2004]

redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on May 9, 1991 by the Village of Tilton and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Brady, **House Bill No. 830** was recalled from the order of third reading to the order of second reading.

Senator Brady offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 830 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

[May 12, 2004]

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it

pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in

the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year

2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to

enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

- (A) an itemized list of estimated redevelopment project costs;
- (B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;
- (C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;
- (D) the sources of funds to pay costs;
- (E) the nature and term of the obligations to be issued;
- (F) the most recent equalized assessed valuation of the redevelopment project area;
- (G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;
- (H) a commitment to fair employment practices and an affirmative action plan;
- (I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and
- (J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

- (1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.
- (2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.
- (3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:
 - (A) if the ordinance was adopted before January 15, 1981, or
 - (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or
 - (C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or
 - (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or
 - (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

- (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or
 (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or
 (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or
 (I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or
 (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or
 (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or
 (L) if the ordinance was adopted in September 1988 by Sauk Village, or
 (M) if the ordinance was adopted in October 1993 by Sauk Village, or
 (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or
 (O) if the ordinance was adopted in March 1991 by the City of Centreville, or
 (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,
 or
 (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or
 (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or
 (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or
 (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
 (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
 (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
 (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or
 (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,
 or
 (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
 (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
 (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
 (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or -
(CC) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35

years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the

changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment

finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies

that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been

properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any

individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986

by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Brady, **House Bill No. 831** was recalled from the order of third reading to the order of second reading.

Senator Brady offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 831 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs

to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

[May 12, 2004]

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project

area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an

ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to

the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities.

The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper

subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, or facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the

municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act,

over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:

(A) if the ordinance was adopted before January 15, 1981, or

(B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or

(C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or

(D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or

(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or

(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or

(H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or

(I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or

(J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or

(K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or

(L) if the ordinance was adopted in September 1988 by Sauk Village, or

(M) if the ordinance was adopted in October 1993 by Sauk Village, or

(N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or

(O) if the ordinance was adopted in March 1991 by the City of Centerville, or

(P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,

or

(Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or

(R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or

(S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or

- (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
 (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
 (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
 (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or
 (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,
 or
 (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
 (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
 (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
 (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of

Markham, or -

(CC) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential

units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment

collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually

as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a

resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very

low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and

servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated

annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to

pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

[May 12, 2004]

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Brady, **House Bill No. 832** was recalled from the order of third reading to the order of second reading.

Senator Brady offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 832 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs

to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers

[May 12, 2004]

to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not

meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment

project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of

State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amending Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such

bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:

- (A) if the ordinance was adopted before January 15, 1981, or
- (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or
- (C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or
- (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or

(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or

(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or

- (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or
- (I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or
- (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or
- (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or
- (L) if the ordinance was adopted in September 1988 by Sauk Village, or
- (M) if the ordinance was adopted in October 1993 by Sauk Village, or
- (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or
- (O) if the ordinance was adopted in March 1991 by the City of Centreville, or
- (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis,

or

- (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or
- (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or
- (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or
- (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or
- (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or
- (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or
- (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or

(X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville,

or

- (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or
- (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or
- (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or
- (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of

Markham, or -

(CC) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall

not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after

November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site

improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40

and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river

conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was

adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

On motion of Senator Sieben, **House Bill No. 833** was recalled from the order of third reading to the order of second reading.

Senator Sieben offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 833 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-141-7 and 11-141-16 as follows:

(65 ILCS 5/11-141-7) (from Ch. 24, par. 11-141-7)

[May 12, 2004]

(Text of Section before amendment by P.A. 93-500)

Sec. 11-141-7. The corporate authorities of any municipality that owns and operates or that may hereafter own and operate a sewerage system constructed or acquired under the provisions of any law of this state may make, enact, and enforce all needful rules, regulations, and ordinances for the improvement, care, and protection of its sewerage system and any other sewer or sewerage system, located outside the corporate boundary of the municipality and not owned by it, that directly or indirectly connects with the municipality's sewerage system, which may be conducive to the preservation of the public health, comfort, and convenience, and may render the sewage carried in the sewerage system of the municipality harmless in so far as it is reasonably possible to do so.

The corporate authorities of such a municipality may, by ordinance, charge the inhabitants thereof for the use and service of its sewerage system whether by direct or indirect connection therewith within or without the corporate boundary, and to establish charges or rates for that purpose. The corporate authorities of such a municipality may by ordinance charge the users thereof, whether they be inside of or outside of the municipality, for the use and service of its sewerage system whether by direct or indirect connection therewith, within or without the corporate boundary, and may establish charges or rates for that purpose, provided however that where such users are residents of another municipality with whom there is a contract for use and service of the sewerage system, then such charges or rates shall be made in accordance with the terms of the contract, either directly to the users or to the contracting municipality as may be provided by the provisions of the contract. In making such rates and charges the municipality may provide for a rate to the outside users in excess of the rate fixed for the inhabitants of said municipality as may be reasonable. Where bonds are issued as provided in Sections 11-141-2 and 11-141-3, the corporate authorities shall establish rates or charges as provided in this section, and these charges or rates shall be sufficient at all times to pay the cost of operation and maintenance, to provide an adequate depreciation fund, and to pay the principal of and interest upon all revenue bonds issued under Sections 11-141-2 and 11-141-3.

A depreciation fund is a fund for such replacements as may be necessary from time to time for the continued effective and efficient operation of the system. The depreciation fund shall not be allowed to accumulate beyond a reasonable amount necessary for that purpose, and shall not be used for extensions to the system.

Charges or rates shall be established, revised, and maintained by ordinance and become payable as the corporate authorities may determine by ordinance.

Such charges or rates are liens upon the real estate upon or for which sewerage service is supplied whenever the charges or rates become delinquent as provided by the ordinance of the municipality fixing a delinquency date. A lien is created under the preceding sentence only if the municipality sends to the owner or owners of record, as referenced by the taxpayer's identification number, of the real estate (i) a copy of each delinquency notice sent to the person who is delinquent in paying the charges or rates or other notice sufficient to inform the owner or owners of record, as referenced by the taxpayer's identification number, that the charges or rates have become delinquent and (ii) a notice that unpaid charges or rates may create a lien on the real estate under this Section. However, the municipality has no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of the notice of such a lien in the office of the recorder of the county in which such real estate is located, or in the office of the registrar of titles of such county if the property affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended. This notice shall consist of a sworn statement setting out (1) a description of such real estate sufficient for the identification thereof, (2) the amount of money due for such sewerage service, and (3) the date when such amount became delinquent. The municipality shall send a copy of the notice of the lien to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number. The municipality has the power to foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

The municipality also has the power, from time to time, to sue the occupant or user of that real estate in a civil action to recover money due for sewerage services, plus a reasonable attorney's fee, to be fixed by the court. However, whenever a judgment is entered in such a civil action, the foregoing provisions in this section with respect to filing sworn statements of such delinquencies in the office of the recorder and creating a lien against the real estate shall not be effective as to the charges sued upon and no lien shall exist thereafter against the real estate for the delinquency. Judgment in such a civil action operates as a release and waiver of the lien upon the real estate for the amount of the judgment.

(Source: P.A. 87-1197.)

(Text of Section after amendment by P.A. 93-500)

[May 12, 2004]

Sec. 11-141-7. Powers. The corporate authorities of any municipality that owns and operates or that may hereafter own and operate a sewerage system constructed or acquired under the provisions of any law of this state may make, enact, and enforce all needful rules, regulations, and ordinances for the improvement, care, and protection of its sewerage system and any other sewer or sewerage system, located outside the corporate boundary of the municipality and not owned by it, that directly or indirectly connects with the municipality's sewerage system, which may be conducive to the preservation of the public health, comfort, and convenience, and may render the sewage carried in the sewerage system of the municipality harmless in so far as it is reasonably possible to do so.

The corporate authorities of such a municipality may, by ordinance, charge the inhabitants thereof for the use and service of its sewerage system whether by direct or indirect connection therewith within or without the corporate boundary, and to establish charges or rates for that purpose. The corporate authorities of such a municipality may by ordinance charge the users thereof, whether they be inside of or outside of the municipality, for the use and service of its sewerage system whether by direct or indirect connection therewith, within or without the corporate boundary, and may establish charges or rates for that purpose, provided however that where such users are residents of another municipality with whom there is a contract for use and service of the sewerage system, then such charges or rates shall be made in accordance with the terms of the contract, either directly to the users or to the contracting municipality as may be provided by the provisions of the contract. In making such rates and charges the municipality may provide for a rate to the outside users in excess of the rate fixed for the inhabitants of said municipality as may be reasonable. Where bonds are issued as provided in Sections 11-141-2 and 11-141-3, the corporate authorities shall establish rates or charges as provided in this section, and these charges or rates shall be sufficient at all times to pay the cost of operation and maintenance, to provide an adequate depreciation fund, and to pay the principal of and interest upon all revenue bonds issued under Sections 11-141-2 and 11-141-3.

A depreciation fund is a fund for such replacements as may be necessary from time to time for the continued effective and efficient operation of the system. The depreciation fund shall not be allowed to accumulate beyond a reasonable amount necessary for that purpose, and shall not be used for extensions to the system.

Charges or rates shall be established, revised, and maintained by ordinance and become payable as the corporate authorities may determine by ordinance.

Such charges or rates are liens upon the real estate upon or for which sewerage service is supplied whenever the charges or rates become delinquent as provided by the ordinance of the municipality fixing a delinquency date. A lien is created under the preceding sentence only if the municipality sends to the owner or owners of record, as referenced by the taxpayer's identification number, of the real estate (i) a copy of each delinquency notice sent to the person who is delinquent in paying the charges or rates or other notice sufficient to inform the owner or owners of record, as referenced by the taxpayer's identification number, that the charges or rates have become delinquent and (ii) a notice that unpaid charges or rates may create a lien on the real estate under this Section. However, the municipality has no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of the notice of such a lien in the office of the recorder of the county in which such real estate is located, or in the office of the registrar of titles of such county if the property affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended. This notice shall consist of a sworn statement setting out (1) a description of such real estate sufficient for the identification thereof, (2) the amount of money due for such sewerage service, and (3) the date when such amount became delinquent. The municipality shall send a copy of the notice of the lien to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number. The municipality has the power to foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

Except in counties with a population of more than 250,000 where the majority of the municipal sewerage system users are located outside of the municipality's corporate limits, the payment of delinquent charges for sewerage service or solid waste disposal service to any premises may be enforced by discontinuing ~~any one or more of either~~ the water service ~~, the solid waste disposal service,~~ or the sewerage service to that premises ~~, or both~~. A rate or charge is delinquent if it is more than 30 days overdue. Any public or municipal corporation or political subdivision of the State furnishing water service to a premises (i) shall discontinue that service upon receiving written notice from the municipality providing sewerage service or solid waste disposal service that payment of the rate or charge for sewerage or solid waste disposal service to the premises has become delinquent and (ii) shall not resume water service until receiving a similar notice that the delinquency has been removed. The provider of sewerage or solid waste disposal service shall not request discontinuation of water service

before sending a notice of the delinquency to the sewer user and affording the user an opportunity to be heard. An investor-owned public utility providing water service within a municipality that provides sewerage service may contract with the municipality to discontinue water service to a premises with respect to which the payment of a rate or charge for sewerage service has become delinquent. The municipality shall reimburse the privately owned public utility, public or municipal corporation, or political subdivision of the State for the reasonable cost of the discontinuance and the resumption of water service, any lost water service revenues, and the costs of discontinuing water service. The municipality shall indemnify the privately owned public utility, public or municipal corporation, or political subdivision of the State for any judgment and related attorney's fees resulting from an action based on any provision of this paragraph. In this paragraph, "solid waste" means that term as it is defined in Section 3.470 of the Environmental Protection Act and also means "garbage", "refuse", and "ashes" as those terms are defined in Section 11-19-2 of this Code.

The municipality also has the power, from time to time, to sue the occupant or user of that real estate in a civil action to recover money due for sewerage services, plus a reasonable attorney's fee, to be fixed by the court. However, whenever a judgment is entered in such a civil action, the foregoing provisions in this section with respect to filing sworn statements of such delinquencies in the office of the recorder and creating a lien against the real estate shall not be effective as to the charges sued upon and no lien shall exist thereafter against the real estate for the delinquency. Judgment in such a civil action operates as a release and waiver of the lien upon the real estate for the amount of the judgment.

(Source: P.A. 93-500, eff. 6-1-04.)

(65 ILCS 5/11-141-16) (from Ch. 24, par. 11-141-16)

(Text of Section before amendment by P.A. 93-500)

Sec. 11-141-16. If after the public hearing the corporate authorities of the municipality adopt a resolution to proceed with the construction or acquisition of the project, the corporate authorities may make and enforce all needful rules and regulations in connection with the construction, acquisition, improvement, or extension, and with the management and maintenance of the project to be constructed or acquired. The corporate authorities also may establish the rate or charge to each user of the sewerage system or improvement or extension at a rate which will be sufficient to pay the principal and interest of any bonds, issued to pay the cost thereof, maintenance, and operation of the system, improvement, or extension and may provide an adequate depreciation fund therefor. Charges or rates shall be established, revised, and maintained by ordinance and become payable as the corporate authorities may determine by ordinance. Such charges or rates are liens upon the real estate upon or for which sewerage service is supplied whenever the charges or rates become delinquent as provided by the ordinance of the municipality fixing a delinquency date. A lien is created under the preceding sentence only if the municipality sends to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number, (i) a copy of each delinquency notice sent to the person who is delinquent in paying the charges or rates or other notice sufficient to inform the owner or owners of record, as referenced by the taxpayer's identification number, that the charges or rates have become delinquent and (ii) a notice that unpaid charges or rates may create a lien on the real estate under this Section. However, the municipality has no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of the notice of such a lien in the office of the recorder of the county in which such real estate is located or in the office of the registrar of titles of such county if the property affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended. This notice shall consist of a sworn statement setting out (1) a description of such real estate sufficient for the identification thereof, (2) the amount of money due for such sewerage service, and (3) the date when such amount became delinquent, (4) the owner of record of the premises. The municipality shall send a copy of the notice of the lien to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number. The municipality may foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

The municipality also may, from time to time, sue the occupant or user of the real estate in a civil action to recover the money due for sewerage services, plus a reasonable attorney's fee, to be fixed by the court. However, whenever a judgment is entered in such a civil action, the foregoing provision in this section with respect to filing sworn statements of such delinquencies in the office of the recorder and creating a lien against the real estate shall not be effective as to the charges sued upon and no lien shall exist thereafter against the real estate for that delinquency. Judgment in such a civil action operates as a release and waiver of the lien upon the real estate for the amount of the judgment. The charge provided in this section to be made against each user of an improvement or extension shall be in addition to the charge, if any, made of all users of the system under Section 11-141-7 and shall be kept separate and distinct therefrom.

[May 12, 2004]

This amendatory Act of 1975 is not a limit on any municipality which is a home rule unit.
(Source: P.A. 87-1197.)

(Text of Section after amendment by P.A. 93-500)

Sec. 11-141-16. Powers; particular locality. If after the public hearing the corporate authorities of the municipality adopt a resolution to proceed with the construction or acquisition of the project, the corporate authorities may make and enforce all needful rules and regulations in connection with the construction, acquisition, improvement, or extension, and with the management and maintenance of the project to be constructed or acquired. The corporate authorities also may establish the rate or charge to each user of the sewerage system or improvement or extension at a rate which will be sufficient to pay the principal and interest of any bonds, issued to pay the cost thereof, maintenance, and operation of the system, improvement, or extension and may provide an adequate depreciation fund therefor. Charges or rates shall be established, revised, and maintained by ordinance and become payable as the corporate authorities may determine by ordinance. Such charges or rates are liens upon the real estate upon or for which sewerage service is supplied whenever the charges or rates become delinquent as provided by the ordinance of the municipality fixing a delinquency date. A lien is created under the preceding sentence only if the municipality sends to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number, (i) a copy of each delinquency notice sent to the person who is delinquent in paying the charges or rates or other notice sufficient to inform the owner or owners of record, as referenced by the taxpayer's identification number, that the charges or rates have become delinquent and (ii) a notice that unpaid charges or rates may create a lien on the real estate under this Section. However, the municipality has no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of the notice of such a lien in the office of the recorder of the county in which such real estate is located or in the office of the registrar of titles of such county if the property affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended. This notice shall consist of a sworn statement setting out (1) a description of such real estate sufficient for the identification thereof, (2) the amount of money due for such sewerage service, and (3) the date when such amount became delinquent, (4) the owner of record of the premises. The municipality shall send a copy of the notice of the lien to the owner or owners of record of the real estate, as referenced by the taxpayer's identification number. The municipality may foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

Except in counties with a population of more than 250,000 where the majority of the municipal sewerage system users are located outside of the municipality's corporate limits, the payment of delinquent charges for sewerage service or solid waste disposal service to any premises may be enforced by discontinuing any one or more of either the water service , the solid waste disposal service, or the sewerage service to that premises , or both. A rate or charge is delinquent if it is more than 30 days overdue. Any public or municipal corporation or political subdivision of the State furnishing water service to a premises (i) shall discontinue that service upon receiving written notice from the municipality providing sewerage or solid waste disposal service that payment of the rate or charge for sewerage or solid waste disposal service to the premises has become delinquent and (ii) shall not resume water service until receiving a similar notice that the delinquency has been removed. The provider of sewerage service or solid waste disposal service shall not request discontinuation of water service before sending a notice of the delinquency to the ~~sewer~~ user and affording the user an opportunity to be heard. An investor-owned public utility providing water service within a municipality that provides sewerage service may contract with the municipality to discontinue water service to a premises with respect to which the payment of a rate or charge for sewerage service has become delinquent. The municipality shall reimburse the privately owned public utility, public or municipal corporation, or political subdivision of the State for the reasonable cost of the discontinuance and the resumption of water service, any lost water service revenues, and the costs of discontinuing water service. The municipality shall indemnify the privately owned public utility, public or municipal corporation, or political subdivision of the State for any judgment and related attorney's fees resulting from an action based on any provision of this paragraph. In this paragraph, "solid waste" means that term as it is defined in Section 3.470 of the Environmental Protection Act and also means "garbage", "refuse", and "ashes" as those terms are defined in Section 11-19-2 of this Code.

The municipality also may, from time to time, sue the occupant or user of the real estate in a civil action to recover the money due for sewerage services, plus a reasonable attorney's fee, to be fixed by the court. However, whenever a judgment is entered in such a civil action, the foregoing provision in this section with respect to filing sworn statements of such delinquencies in the office of the recorder and creating a lien against the real estate shall not be effective as to the charges sued upon and no lien shall

exist thereafter against the real estate for that delinquency. Judgment in such a civil action operates as a release and waiver of the lien upon the real estate for the amount of the judgment. The charge provided in this section to be made against each user of an improvement or extension shall be in addition to the charge, if any, made of all users of the system under Section 11-141-7 and shall be kept separate and distinct therefrom.

This amendatory Act of 1975 is not a limit on any municipality which is a home rule unit.
(Source: P.A. 93-500, eff. 6-1-04.)

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 June 1, 2004."

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.

On motion of Senator Sandoval, **House Bill No. 835** was recalled from the order of third reading to the order of second reading.

Senator Sandoval offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 835 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs

to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of

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applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused railyards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so

serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an

annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village or incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the

Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not

issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amendatory Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted

unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:

(A) if the ordinance was adopted before January 15, 1981, or

(B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or

(C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or

(D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or

(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or

(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or

(H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or

(I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or

(J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or

(K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or

(L) if the ordinance was adopted in September 1988 by Sauk Village, or

(M) if the ordinance was adopted in October 1993 by Sauk Village, or

(N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or

(O) if the ordinance was adopted in March 1991 by the City of Centreville, or

(P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or

(Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or

(R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or

(S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or

(T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or

(U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or

(V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or

(W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or

(X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or

(Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or

(Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or

(AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or

(BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or -

(CC) if the ordinance was adopted on December 23, 1986 by the Town of Cicero.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of

those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the

commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable

to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita

Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts

with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property

tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of

property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of

property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of

1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies

that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated

to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the

terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and

before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs

shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career

education, including but not limited to courses in occupational, semi-technical or technical fields

leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a

population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and

servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental

revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than

December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on December 23, 1986 by the Town of Cicero and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality incurring such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; 92-624, eff. 7-11-02; 92-651, eff. 7-11-02; 93-298, eff. 7-23-03.)

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.

[May 12, 2004]

On motion of Senator Silverstein, **House Bill No. 837** was recalled from the order of third reading to the order of second reading.

Senator Silverstein offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 837 by replacing everything after the enacting clause with the following:

"Section 5. The Metropolitan Water Reclamation District Act is amended by changing Section 8c and by adding Section 295 as follows:

(70 ILCS 2605/8c) (from Ch. 42, par. 327c)

Sec. 8c. Every lease of property no longer or not immediately required for corporate purposes of a sanitary district, from such district to others for a term not to exceed 99 years, in accordance with Section 8 of this Act, shall be negotiated, created and executed in the following manner:

(1) Notice of such proposed leasing shall be published for 3 consecutive weeks in a newspaper of general circulation published in such sanitary district, if any, and otherwise in the county containing such district.

(2) Prior to receipt of bids for the lease under this Section, the fair market value of every parcel of real property to be leased must be determined by 2 professional appraisers who are members of the American Institute of Real Estate Appraisers or a similar, equivalently recognized professional organization. The sanitary district acting through the general superintendent may select and engage an additional appraiser for such determination of fair market value. Every appraisal report must contain an affidavit certifying the absence of any collusion involving the appraiser and relating to the lease of such property.

(3) Such lease must be awarded to the highest responsible bidder (including established commercial or industrial concerns and financially responsible individuals) upon free and open competitive bids, except that no lease may be awarded unless the bid of such highest responsible bidder provides for an annual rental payment to the sanitary district of at least 6% of the fair market value determined under this Section.

(4) Prior to acceptance of the bid of the highest responsible bidder and before execution of the lease the bidder shall submit to the board of commissioners and general superintendent, for incorporation in the lease, a detailed plan and description of improvements to be constructed upon the leased property, the time within which the improvements will be completed, and the intended uses of the leased property. If there is more than one responsible bid, the board of commissioners may authorize and direct the general superintendent to solicit from the 2 highest responsible bidders written amendments to their prior bids, increasing their rental bid proposal by at least 5% in excess of their prior written bid, or otherwise amending the financial terms of their bid so as to maximize the financial return to the sanitary district during the term of the proposed lease. Upon the general superintendent's tentative agreement with one or more amended bids, the bids may be submitted to the board of commissioners with the recommendation of the general superintendent for acceptance of one or rejection of all. The amendments may not result in a diminution of the terms of the transaction and must result in an agreement that is equal to or greater in value than the highest responsible bid initially received.

(5) The execution of such lease must be contemporaneous to the execution by the lessee, each member of the board of commissioners and the general superintendent of an affidavit certifying the absence of any collusion involving the lessee, the members and the general superintendent and relating to such lease.

(6) No later than 30 days after the effective date of the lease, the lessee must deliver to the sanitary district a certified statement of the County Assessor, Township Assessor or the county clerk of the county wherein the property is situated that such property is presently contained in the official list of lands and lots to be assessed for taxes for the several towns or taxing districts in his county.

(7) Such lease shall provide for a fixed annual rental payment for the first year not less than 6% of the fair market value as determined under this Section and may be subject to annual adjustments based on changes in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, or some other well known economic governmental activity index. Any lease, the term of which will extend for 15 years or more, shall provide for a redetermination of the fair market value (independent of improvements to the property subsequent to the effective date of the lease) after the initial 10 years and every 10 years thereafter, in the manner set forth in paragraph (2) of this Section, said redetermination to be as of the first day of each succeeding 10 year period, and annual rental payments shall be adjusted so that the ratio of annual rental to fair market value shall be the same as that ratio for the first year of the preceding 10 year period. The rental payment for the first year of the new 10

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year period may be subject to Consumer Price Index or other allowable index adjustments for each of the next 9 years, or until the end of the lease term if there are less than 9 years remaining.

(8) A sanitary district may require compensation to be paid in addition to rent, based on a reasonable percentage of revenues derived from a lessee's business operations on the leasehold premises or subleases, or may require additional compensation from the lessee or any sublessee in the form of services, including but not limited to solid waste disposal; provided, however, that such additional compensation shall not be considered in determining the highest responsible bid, said highest responsible bid to be determined only on the initial annual rental payment as set forth in paragraph (3) of this Section.

(9) No assignment of such lease or sublease of such property is effective unless approved in writing by the general superintendent and the board of commissioners of the sanitary district. No assignment or sublease is effective if the assignee or sublessee is a trust constituted by real property of which the trustee has title but no power of management or control, unless the identity of the beneficiaries of the trust is revealed, upon demand, to the general superintendent and the board of commissioners of the sanitary district.

(10) Failure by the lessee to comply with a provision in the lease relating to improvements upon the leased property or any other provision constitutes grounds for forfeiture of the lease, and upon such failure the sanitary district acting through the general superintendent shall serve the lessee with a notice to terminate the lease and deliver possession of the property to the sanitary district within a particular period.

(11) If the general superintendent and the board of commissioners conclude that it would be in the public interest, said sanitary district may lease to the United States of America and the State of Illinois, County of Cook, any municipal corporation, or any academic institution of ~~higher~~ learning which has been in existence for 5 years prior to said lease, provided that such lease limit the institution's use of the leased land to only those purposes relating to the operation of such institution's academic or physical educational programs without complying with the prior provisions of this section, upon such terms as may be mutually agreed upon, in accordance with an act concerning "Transfer of Real Estate between Municipal Corporations", approved July 2, 1925, as amended, with provisions that such property is to be applied exclusively to public recreational purposes or other public purposes and that such lease is terminable in accordance with service of a one-year notice to terminate after determination by the board of commissioners and the general superintendent that such property (or part thereof) has become essential to the corporate purposes of the sanitary district.

(Source: P.A. 91-248, eff. 1-1-00; 92-16, eff. 6-28-01.)

(70 ILCS 2605/295 new)

Sec. 295. District enlarged. Upon the effective date of this amendatory Act of the 93rd General Assembly, the corporate limits of the Metropolitan Water Reclamation District are extended to include within those limits the following described tracts of land and those tracts are annexed to the District.

Parcel 1:

THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART TAKEN FOR ROAD PURPOSES IN RIDGELAND AVENUE AND EXCEPT THAT PART LYING IN THE MICHIGAN CENTRAL RAILROAD RIGHT OF WAY AND EXCEPT THE NORTH 208.71 FEET OF THE WEST 313.07 FEET OF THAT PART OF THE SOUTHEAST QUARTER OF SECTION 19 LYING SOUTH OF THE SOUTH RIGHT OF WAY OF U.S. ROUTE 30, ALL IN COOK COUNTY, ILLINOIS.

Parcel 2:

THE WEST 75 ACRES OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Parcel 3:

THE SOUTH 242.29 FEET (AS MEASURED ALONG THE EAST LINE) OF LOT 8 IN BLOCK 14 IN ARTHUR T. McINTOSH & COMPANY'S CRAWFORD COUNTRYSIDE UNIT NO. 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 23, 1952 AS DOCUMENT NO. 15259571, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 4:

HERBERT'S RESUBDIVISION OF LOT 9 IN BLOCK 14 IN ARTHUR T. McINTOSH & COMPANY'S CRAWFORD COUNTRYSIDE UNIT NO. 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE

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THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREETS.

Parcel 5:

THE SOUTH 150 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF LOT 2 IN BLOCK 13 IN ARTHUR T. McINTOSH & COMPANY'S CRAWFORD COUNTRYSIDE UNIT 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO PLAT THEREOF RECORDED PER DOCUMENT NO. 15259571, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 6:

THE EAST 100.0 FEET OF THE SOUTH 125.0 FEET OF LOT 4 IN BLOCK 13 IN ARTHUR T. McINTOSH AND COMPANY'S CRAWFORD COUNTRYSIDE UNIT NO. 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 7:

THE WEST HALF OF THE SOUTH 125 FEET OF LOT 4, IN BLOCK 13, IN ARTHUR T. McINTOSH AND COMPANY'S CRAWFORD COUNTRYSIDE UNIT NO. 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 8:

THE SOUTH HALF OF LOT 5, IN BLOCK 13, IN ARTHUR T. McINTOSH AND COMPANY'S CRAWFORD COUNTRYSIDE UNIT NO. 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 9:

LOT 15 (EXCEPT THE WEST 50.0 FEET THEREOF) IN BLOCK 12 IN ARTHUR T. McINTOSH AND COMPANY'S CRAWFORD COUNTRYSIDE UNIT NUMBER 2, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO, THAT PART OF ADJOINING STREET.

Parcel 10:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION TWENTY ONE, TOWNSHIP FORTY-ONE NORTH, RANGE NINE, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTER OF SECTION TWENTY-ONE, AFORESAID; THENCE SOUTH 00 DEGREES 20 MINUTES 03 SECONDS WEST, BEING AN ASSUMED BEARING ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION TWENTY-ONE, A DISTANCE OF 567.31 FT. TO THE WESTERLY LINE OF JACOBS' FARM SUBDIVISION, RECORDED NOVEMBER 4, 1994 AS DOCUMENT NO. 94944947; THENCE SOUTH 38 DEGREES 21 MINUTES 58 SECONDS WEST, ALONG THE WESTERLY LINE OF SAID JACOBS' FARM SUBDIVISION, A DISTANCE OF 108.45 FT. TO THE APPARENT NORTHERLY RIGHT-OF-WAY LINE OF IRVING PARK ROAD (ALSO KNOWN AS ILLINOIS ROUTE 19); THENCE NORTH 57 DEGREES 29 MINUTES 24 SECONDS WEST, ON SAID APPARENT NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 266.15 FT. (266.40 FT.=DEED) TO AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE CONTINUING NORTH 53 DEGREES 43 MINUTES 44 SECONDS WEST, ON SAID APPARENT NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 284.32 FT. TO AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE CONTINUING NORTH 51 DEGREES 25 MINUTES 54 SECONDS WEST, ON SAID APPARENT NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 657.65 FT. (657.68 FT.=DEED) TO THE MOST SOUTHERLY CORNER OF OUTLOT "H" IN STERLING OAKS UNIT TWO, RECORDED JULY 15, 2002 AS DOCUMENT NUMBER 0020769602 AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED AUGUST 12, 2002 AS DOCUMENT NUMBER 0020876507; THENCE NORTH 38 DEGREES 28 MINUTES 51 SECONDS EAST, ALONG THE SOUTHEASTERLY LINE OF SAID STERLING OAKS UNIT TWO, A DISTANCE OF 65.47 FT.; THENCE SOUTH 51 DEGREES 25 MINUTES 54 SECONDS EAST, A DISTANCE OF 69.76 FT.; THENCE SOUTH 39 DEGREES 05 MINUTES 55 SECONDS EAST, DISTANCE OF 167.72 FT.; THENCE SOUTH 88 DEGREES 08 MINUTES 41 SECONDS

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EAST, A DISTANCE OF 150.79 FT.; THENCE NORTH 45 DEGREES 51 MINUTES 58 SECONDS EAST, A DISTANCE OF 145.34 FT.; THENCE NORTH 12 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 85.19 FT.; THENCE NORTH 24 DEGREES 28 MINUTES 33 SECONDS EAST, A DISTANCE OF 147.51 FT.; THENCE NORTH 39 DEGREES 03 MINUTES 52 SECONDS EAST, A DISTANCE OF 248.14 FT.(248.33 FT=DEED); THENCE SOUTH 61 DEGREES 25 MINUTES 18 SECONDS EAST, A DISTANCE OF 46.86 FT. TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY 99.59 FT. ALONG THE ARC OF A CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 180.0 FT., AND A CHORD DISTANCE BEARING OF SOUTH 77 DEGREES 16 MINUTES 17 SECONDS EAST, AND A CHORD DISTANCE OF SOUTH 98.32 FT. TO THE POINT OF TANGENCY; THENCE NORTH 86 DEGREES 52 MINUTES 44 SECONDS EAST, A DISTANCE OF 199.89 FT. TO THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION TWENTY-ONE; THENCE SOUTH 00 DEGREES 20 MINUTES 03 SECONDS WEST, ON THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION TWENTY-ONE, A DISTANCE OF 420.86 FT. TO THE POINT OF BEGINNING, IN HANOVER TOWNSHIP, COOK COUNTY, ILLINOIS, CONTAINING 16.612 ACRES MORE OR LESS, ALSO ALL THAT PART OF IRVING PARK ROAD (ALSO KNOWN AS ILLINOIS ROUTE 19) LYING SOUTHWESTERLY OF AND ADJOINING THE ABOVE DESCRIBED PROPERTY, ALL IN COOK COUNTY, ILLINOIS.

Parcel 11:

THAT PART OF SECTIONS EIGHT, SIXTEEN AND SEVENTEEN, TOWNSHIP 41 NORTH, RANGE NINE, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE 100 FOOT WIDE RIGHT-OF-WAY OF GOLF ROAD (ILLINOIS ROUTE 58) AND THE EAST LINE OF THE 66 FOOT WIDE RIGHT-OF-WAY OF ROHRSSEN ROAD; THENCE SOUTH 16 DEGREES 32 MINUTES 42 SECONDS WEST ALONG THE EAST LINE OF SAID ROHRSSEN ROAD RIGHT-OF-WAY 310.04 FT.; THENCE NORTH 73 DEGREES 27 MINUTES 18 SECONDS WEST, 66.00 FT. TO A POINT IN THE WEST RIGHT-OF WAY LINE OF SAID ROHRSSEN ROAD; THENCE SOUTH 89 DEGREES 36 MINUTES 01 SECONDS WEST, 807.31 FT.; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS WEST, 81.82 FT.; THENCE SOUTH 87 DEGREES 13 MINUTES 49 SECONDS WEST, 725.00 FT.; THENCE NORTH 00 DEGREES 48 MINUTES 30 SECONDS WEST, 673.60 FT. TO A POINT IN THE SOUTH LINE OF SAID 100 FOOT WIDE RIGHT-OF-WAY OF GOLF ROAD AFORESAID, SAID POINT BEING ON A 3947.40 FOOT RADIUS CURVE; THENCE EASTERLY ALONG SAID 3947.40 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 17.70 FT. TO A POINT OF TANGENCY IN SAID RIGHT-OF-WAY LINE; THENCE SOUTH 75 DEGREES 16 MINUTES 32 SECONDS EAST, 1482.69 FT. TO A POINT OF CURVATURE IN SAID RIGHT-OF-WAY LINE; THENCE ALONG A 4126.70 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 181.70 FT. TO A POINT IN THE WEST RIGHT-OF-WAY LINE OF SAID ROHRSSEN ROAD; THENCE SOUTH 79 DEGREES 03 MINUTES 37 SECONDS EAST, 66.32 FT. TO THE POINT OF BEGINNING, TOGETHER WITH ALL THAT PART OF THE 100 FOOT WIDE GOLF ROAD RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO THE ABOVE DESCRIBED TRACT OF LAND, ALL IN COOK COUNTY, ILLINOIS, CONTAINING 21.94 ACRES MORE OR LESS.

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.

On motion of Senator Hunter, **House Bill No. 839** 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. 1

AMENDMENT NO. 1 . Amend House Bill 839 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 5-41010 as follows:

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(55 ILCS 5/5-41010)

Sec. 5-41010. Code hearing unit. The county board in any county ~~having a population of less than 3,000,000 inhabitants~~ may establish by ordinance a code hearing unit within an existing code enforcement agency or as a separate and independent agency in county government. A county may establish a code hearing unit and administrative adjudication process only under the provisions of this Division 5-41. The function of the code hearing unit shall be to expedite the prosecution and correction of code violations as provided in this Division 5-41.

(Source: P.A. 90-517, eff. 8-22-97)."

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.

On motion of Senator Link, **House Bill No. 869** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 869 by replacing everything after the enacting clause with the following:

"Section 3. "AN ACT concerning taxes", approved January 22, 2004, Public Act 93-657, is amended by adding Section 99 as follows:

(P.A. 93-657, Sec. 99 new)

Sec. 99. Effective date. This Act takes effect on June 1, 2004, except that Section 5 takes effect on July 1, 2004.

Section 5. The Property Tax Code is amended by changing Sections 31-5, 31-10, and 31-20 as follows:

(35 ILCS 200/31-5)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-5. Definitions.

"Recordation" includes the issuance of certificates of title by Registrars of Title under the Registered Titles (Torrens) Act pursuant to the filing of deeds or trust documents for that purpose, as well as the recording of deeds or trust documents by recorders.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Value" means the amount of the full actual consideration for the real property or the beneficial interest in real property located in Illinois, including the amount of any lien on the real property assumed by the transferee buyer.

"Trust document" means a document required to be recorded under the Land Trust Recordation and Transfer Tax Act and, beginning July 1, 2004, also means any document relating to the transfer of a taxable beneficial interest under this Article.

"Beneficial interest" includes, but is not limited to:

- (1) the beneficial interest in an Illinois land trust;
- (2) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired; or
- (3) the indirect interest in real property as reflected by a controlling interest in a real estate entity.

"Controlling interest" means more than 50% of the fair market value of all ownership interests or beneficial interests in a real estate entity.

"Real estate entity" means any person including, but not limited to, any partnership, corporation, limited liability company, trust, other entity, or multi-tiered entity, that exists or acts substantially for the purpose of holding directly or indirectly title to or beneficial interest in real property. There is a rebuttable presumption that an entity is a real estate entity if it owns, directly or indirectly, real property having a fair market value greater than 75% of the total fair market value of all of the entity's assets,

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determined without deduction for any mortgage, lien, or encumbrance.

(Source: P.A. 92-651, eff. 7-11-02; 93-657, eff. 6-1-04.)

(35 ILCS 200/31-10)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-10. Imposition of tax. A tax is imposed on the privilege of transferring title to real estate located in Illinois, on the privilege of transferring a beneficial interest in real property located in Illinois, and on the privilege of transferring a controlling interest in a real estate entity owning property located in Illinois, at the rate of 50¢ for each \$500 of value or fraction of \$500 stated in the declaration required by Section 31-25. If, however, the transferring document states that the real estate, beneficial interest, or controlling interest is transferred subject to a mortgage, the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax. The tax is due if the transfer is made by one or more related transactions or involves one or more persons or entities and whether or not a document is recorded.

(Source: P.A. 93-657, eff. 6-1-04.)

(35 ILCS 200/31-20)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-20. Affixing of stamps. Payment of the tax shall be evidenced by revenue stamps in the amount required to show full payment of the tax imposed by Section 31-10. Except as provided in Section 31-45, a deed, document transferring a controlling interest in real property, or trust document shall not be accepted for filing by any recorder or registrar of titles unless revenue stamps in the required amount have been purchased from the recorder or registrar of titles of the county where the deed, document transferring a controlling interest in real property, or trust document is being filed for recordation. The revenue stamps shall be affixed to the deed, document transferring a controlling interest in real property, or trust document by the recorder or the registrar of titles either before or after recording as requested by the grantee. The Department may prescribe a form to which stamps must be affixed that a transferee must file for recordation at the time a declaration is presented if a transferring document is not presented for recordation within 3 business days after the transfer is effected. A person using or affixing a revenue stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his or her initials and the day, month and year when the affixing occurs. The marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the revenue stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

(Source: P.A. 93-657, eff. 6-1-04.)

Section 10. The Stock, Commodity, or Options Transaction Tax Exemption Act is amended by changing Section 3 as follows:

(35 ILCS 820/3)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 3. Construction of Act. Nothing in this Act shall be construed as prohibiting or otherwise invalidating any real estate transfer tax or fee authorized or permitted by Section 31-10 of the Property Tax Code, Sections 5-1031 and Section 5-1031.1 of the Counties Code, or Section 8-3-19 of the Illinois Municipal Code. This Section is intended as a clarification and not as a change to existing law.

(Source: P.A. 93-657, eff. 6-1-04.)

Section 15. The Counties Code is amended by changing Section 5-1031 as follows:

(55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

Sec. 5-1031. County real estate transfer tax.

(a) The county board of a county may impose a tax upon the privilege of transferring title to real estate, as represented by the deed that is filed for recordation, and upon the privilege of transferring a beneficial interest in a land trust holding legal title to real estate located in such county as represented by the trust document that is filed for recordation, at the rate of 25 cents for each \$500 of value or fraction thereof stated in the declaration required by Section 31-25 of the Property Tax Code. If, however, the real estate is transferred subject to a mortgage, the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax.

A tax imposed pursuant to this Section shall be collected by the recorder or registrar of titles of the county prior to recording the deed or trust document or registering the title subject to the tax. All deeds or trust documents exempted in Section 31-45 of the Property Tax Code shall also be exempt from any tax imposed pursuant to this Section. A tax imposed pursuant to this Section shall be in addition to all other occupation and privilege taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

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(b) Beginning July 1, 2004, no tax may be imposed by a county under this Section unless the county board also imposes a tax at the same rate on the transfer of a beneficial interest, as defined in Section 31-5 of the Property Tax Code. If, however, the transferring document states that the real estate or beneficial interest is transferred subject to a mortgage, then the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax.

The tax must be paid at the time of recordation or, if a document is not recorded, at the time of presentation of the transfer declaration to the recorder, as provided in Section 31-25 of the Property Tax Code. All deeds or documents relating to the transfer of a beneficial interest exempted in Sections 31-45 or 31-46 of the Property Tax Code are also exempt from any tax imposed under this Section. A tax imposed under this Section is in addition to all other occupation and privilege taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

(c) Beginning July 1, 2004, a tax imposed under this Section is due if the transfer is made by one or more related transactions or involves one or more persons or entities, regardless of whether a document is recorded.

(d) Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 89-626, eff. 8-9-96.)

Section 90. The State Mandates Act is amended by adding Section 8.28 as follows:

(30 ILCS 805/8.28 new)

Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by Section 5-1031 of the Counties Code or otherwise by this amendatory Act of the 93rd General Assembly.

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 July 1, 2004, except that Section 3 and this Section take 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.

On motion of Senator Clayborne, **House Bill No. 874** 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

AMENDMENT NO. 1 . Amend House Bill 874 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 3-105 as follows:

(220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

Sec. 3-105. Public utility. "Public utility" means and includes, except where otherwise expressly provided in this Section, every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in:

- a. the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water, or light, except when used solely for communications purposes;
- b. the disposal of sewerage; or
- c. the conveyance of oil or gas by pipe line.

"Public utility" does not include, however:

1. public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned

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by such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents;

2. water companies which are purely mutual concerns, having no rates or charges for services, but paying the operating expenses by assessment upon the members of such a company and no other person;

3. electric cooperatives as defined in Section 3-119;

4. residential natural gas cooperatives that are not-for-profit corporations established for the purpose of administering and operating, on a cooperative basis, the furnishing of natural gas to residences for the benefit of their members who are residential consumers of natural gas. For entities qualifying as residential natural gas cooperatives and recognized by the Illinois Commerce Commission as such, the State shall guarantee legally binding contracts entered into by residential natural gas cooperatives for the express purpose of acquiring natural gas supplies for their members. The Illinois Commerce Commission shall establish rules and regulations providing for such guarantees. The total liability of the State in providing all such guarantees shall not at any time exceed \$1,000,000, nor shall the State provide such a guarantee to a residential natural gas cooperative for more than 3 consecutive years;

5. sewage disposal companies which provide sewage disposal services on a mutual basis without establishing rates or charges for services, but paying the operating expenses by assessment upon the members of the company and no others;

6. (Blank);

7. cogeneration facilities, small power production facilities, and other qualifying facilities, as defined in the Public Utility Regulatory Policies Act and regulations promulgated thereunder, except to the extent State regulatory jurisdiction and action is required or authorized by federal law, regulations, regulatory decisions or the decisions of federal or State courts of competent jurisdiction;

8. the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel and the selling of compressed natural gas at retail to the public for use only as a motor vehicle fuel; ~~and~~

9. alternative retail electric suppliers as defined in Article XVI; and -

10. the ownership or operation of a facility that distributes primarily propane by pipeline and sells it at retail, except in cases where there is no alternative source of propane reasonably available to the customers being served.

(Source: P.A. 89-42, eff. 1-1-96; 90-561, eff. 12-16-97.)

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.

On motion of Senator Ronen, **House Bill No. 921** was recalled from the order of third reading to the order of second reading.

Senator Ronen offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 921 by replacing everything after the enacting clause with the following:

"Section 5. The State Universities Civil Service Act is amended by adding Section 44.5 as follows:

(110 ILCS 70/44.5 new)

Sec. 44.5. Privatization prohibited. With respect to the services that employees covered by this Act provide on the effective date of this amendatory Act of the 93rd General Assembly, a public university may not enter into a contract with a private entity on or after the effective date of this amendatory Act of the 93rd General Assembly to provide those services.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Clayborne, **House Bill No. 916** 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

AMENDMENT NO. 1 . Amend House Bill 916 by replacing everything after the enacting clause with the following:

"Section 5. The Hazardous Material Emergency Response Reimbursement Act is amended by changing Section 5 as follows:

(430 ILCS 55/5) (from Ch. 127 1/2, par. 1005)

Sec. 5. Reimbursement to agencies.

(a) It shall be the duty of the responsible party to reimburse, within 60 days after the receipt of a bill for the hazardous material emergency incident in a timely and reasonable manner, the emergency response agencies responding to a hazardous material emergency incident, and any private contractor responding to the incident at the request of an emergency response agency, for the costs incurred in the course of providing emergency action.

(b) In the event that the emergency response agencies are not reimbursed by a responsible party as required under subsection (a), monies in the Fund shall be used to reimburse the emergency response agencies providing emergency action at or near the scene of a hazardous materials emergency incident subject to the following limitations:

(1) Cost recovery from the Fund is limited to replacement of expended materials including, but not limited to, specialized firefighting foam, damaged hose or other reasonable and necessary supplies.

(2) The applicable cost of supplies must exceed 2% of the emergency response agency's annual budget.

(3) A minimum of \$500 must have been expended.

(4) A maximum of \$10,000 may be requested per incident.

(5) The response was made to an incident involving hazardous materials facilities such as rolling stock which are not in a terminal and which are not included on the property tax roles for the jurisdiction where the incident occurred.

(c) Application for reimbursement from the Fund shall be made to the State Fire Marshal or his designee. The State Fire Marshal shall, through rulemaking, promulgate a standard form for such application. The State Fire Marshal shall adopt rules for the administration of this Act.

(Source: P.A. 90-467, eff. 8-17-97.)"

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.

On motion of Senator Cullerton, **House Bill No. 956** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 956 by replacing everything after the enacting clause with the following:

"Section 5. The Freedom of Information Act is amended by changing Section 11 as follows:

(5 ILCS 140/11) (from Ch. 116, par. 211)

Sec. 11. (a) Any person denied access to inspect or copy any public record by the head of a public body may file suit for injunctive or declaratory relief.

(b) Where the denial is from the head of a public body of the State, suit may be filed in the circuit court for the county where the public body has its principal office or where the person denied access resides within 60 days after the notice of denial is sent, for any denial made on or after the effective date of this amendatory Act of the 93rd General Assembly. For any denial made prior to the effective date of this amendatory Act of the 93rd General Assembly, suit may be filed in the circuit court in a like manner

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within 60 days after the effective date of this amendatory Act of the 93rd General Assembly.

(c) Where the denial is from the head of a municipality or other public body, except as provided in subsection (b) of this Section, suit may be filed in the circuit court for the county where the public body is located within 60 days after the notice of denial is sent, for any denial made on or after the effective date of this amendatory Act of the 93rd General Assembly. For any denial made prior to the effective date of this amendatory Act of the 93rd General Assembly, suit may be filed in the circuit court in a like manner within 60 days after the effective date of this amendatory Act of the 93rd General Assembly.

(d) The circuit court shall have the jurisdiction to enjoin the public body from withholding public records and to order the production of any public records improperly withheld from the person seeking access. If the public body can show that exceptional circumstances exist, and that the body is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(e) On motion of the plaintiff, prior to or after in camera inspection, the court shall order the public body to provide an index of the records to which access has been denied. The index shall include the following:

(i) A description of the nature or contents of each document withheld, or each deletion from a released document, provided, however, that the public body shall not be required to disclose the information which it asserts is exempt; and

(ii) A statement of the exemption or exemptions claimed for each such deletion or withheld document.

(f) In any action considered by the court, the court shall consider the matter de novo, and shall conduct such in camera examination of the requested records as it finds appropriate to determine if such records or any part thereof may be withheld under any provision of this Act. The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of this Act.

(g) In the event of noncompliance with an order of the court to disclose, the court may enforce its order against any public official or employee so ordered or primarily responsible for such noncompliance through the court's contempt powers.

(h) Except as to causes the court considers to be of greater importance, proceedings arising under this Section shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(i) If a person seeking the right to inspect or receive a copy of a public record substantially prevails in a proceeding under this Section, the court may award such person reasonable attorneys' fees and costs. If, however, the court finds that the fundamental purpose of the request was to further the commercial interests of the requestor, the court may award reasonable attorneys' fees and costs if the court finds that the record or records in question were of clearly significant interest to the general public and that the public body lacked any reasonable basis in law for withholding the record.

(Source: P.A. 93-466, eff. 1-1-04.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 2 was referred to the Committee on Rules earlier today.

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

On motion of Senator Cullerton, **House Bill No. 958** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 958 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 917 as follows:

(35 ILCS 5/917) (from Ch. 120, par. 9-917)

Sec. 917. Confidentiality and information sharing.

(a) Confidentiality. Except as provided in this Section, all information received by the Department from returns filed under this Act, or from any investigation conducted under the provisions of this Act,

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shall be confidential, except for official purposes within the Department or pursuant to official procedures for collection of any State tax or pursuant to an investigation or audit by the Illinois State Scholarship Commission of a delinquent student loan or monetary award or enforcement of any civil or criminal penalty or sanction imposed by this Act or by another statute imposing a State tax, and any person who divulges any such information in any manner, except for such purposes and pursuant to order of the Director or in accordance with a proper judicial order, shall be guilty of a Class A misdemeanor. However, the provisions of this paragraph are not applicable to information furnished to a licensed attorney representing the taxpayer where an appeal or a protest has been filed on behalf of the taxpayer.

(b) Public information. Nothing contained in this Act shall prevent the Director from publishing or making available to the public the names and addresses of persons filing returns under this Act, or from publishing or making available reasonable statistics concerning the operation of the tax wherein the contents of returns are grouped into aggregates in such a way that the information contained in any individual return shall not be disclosed.

(c) Governmental agencies. The Director may make available to the Secretary of the Treasury of the United States or his delegate, or the proper officer or his delegate of any other state imposing a tax upon or measured by income, for exclusively official purposes, information received by the Department in the administration of this Act, but such permission shall be granted only if the United States or such other state, as the case may be, grants the Department substantially similar privileges. The Director may exchange information with the Illinois Department of Public Aid and the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act) for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and the Illinois Public Aid Code. The Director may exchange information with the Director of the Department of Employment Security for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and Acts administered by the Department of Employment Security. The Director may make available to the Illinois Industrial Commission information regarding employers for the purpose of verifying the insurance coverage required under the Workers' Compensation Act and Workers' Occupational Diseases Act.

The Director may make available to any State agency, including the Illinois Supreme Court, which licenses persons to engage in any occupation, information that a person licensed by such agency has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. The Director may make available to any State agency, including the Illinois Supreme Court, information regarding whether a bidder, contractor, or an affiliate of a bidder or contractor has failed to file returns under this Act or pay the tax, penalty, and interest shown therein, or has failed to pay any final assessment of tax, penalty, or interest due under this Act, for the limited purpose of enforcing bidder and contractor certifications. 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.

The Director may make available to any State agency, including the Illinois Supreme Court, units of local government, and school districts, information regarding whether a bidder or contractor is an affiliate of a person who is not collecting and remitting Illinois Use taxes, for the limited purpose of enforcing bidder and contractor certifications.

The Director may also make available to the Secretary of State information that a corporation which has been issued a certificate of incorporation by the Secretary of State has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. An assessment is final when all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted. For taxable years ending on or after December 31, 1987, the Director may make available to the Director or principal officer of any Department of the State of Illinois, information that a person employed by such Department has failed to file returns under this Act or pay the tax, penalty and interest shown therein. For purposes of this paragraph, the word "Department" shall have the same meaning as provided in Section 3 of the State Employees Group Insurance Act of 1971.

The Director shall make information available to the Administrative Office of the Illinois Courts, county boards, jury administrators, and jury commissions concerning persons claiming an earned income tax credit in order to allow compilation of jury lists under the Jury Act and the Jury Commission Act.

(d) The Director shall make available for public inspection in the Department's principal office and for publication, at cost, administrative decisions issued on or after January 1, 1995. These decisions are to be made available in a manner so that the following taxpayer information is not disclosed:

(1) The names, addresses, and identification numbers of the taxpayer, related entities, and employees.

(2) At the sole discretion of the Director, trade secrets or other confidential information identified as such by the taxpayer, no later than 30 days after receipt of an administrative decision, by such means as the Department shall provide by rule.

The Director shall determine the appropriate extent of the deletions allowed in paragraph (2). In the event the taxpayer does not submit deletions, the Director shall make only the deletions specified in paragraph (1).

The Director shall make available for public inspection and publication an administrative decision within 180 days after the issuance of the administrative decision. The term "administrative decision" has the same meaning as defined in Section 3-101 of Article III of the Code of Civil Procedure. Costs collected under this Section shall be paid into the Tax Compliance and Administration Fund.

(e) Nothing contained in this Act shall prevent the Director from divulging information to any person pursuant to a request or authorization made by the taxpayer, by an authorized representative of the taxpayer, or, in the case of information related to a joint return, by the spouse filing the joint return with the taxpayer.

(Source: P.A. 93-25, eff. 6-20-03.)

Section 10. The Jury Act is amended by changing Sections 1 and 1b as follows:

(705 ILCS 305/1) (from Ch. 78, par. 1)

Sec. 1. The county board of each county, except those counties which have a jury administrator or jury commissioners as provided in the Jury Commission Act, shall, at or before the time of its meeting, in September, in each year, or at any time thereafter, when necessary for the purpose of this Act, make a list of the legal voters, the persons claiming an earned income tax credit under the Illinois Income Tax Act, and the Illinois driver's license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders of the county, giving the place of residence of each name on the list, to be known as a jury list. The list shall be made by choosing every tenth name, or other whole number rate necessary to obtain the number required, from the latest voter registration, ~~and~~ drivers license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders lists, and the list of persons claiming an earned income tax credit under the Illinois Income Tax Act of the county. In compiling the jury list, duplication of names shall be avoided to the extent practicable.

As used in this Act, "jury administrator" is defined as under Section 0.05 of the Jury Commission Act. (Source: P.A. 90-482, eff. 1-1-98.)

(705 ILCS 305/1b) (from Ch. 78, par. 1b)

Sec. 1b. The combination of the lists of registered voters, persons claiming an earned income tax credit under the Illinois Income Tax Act, and driver's license, Illinois Identification Card, or Illinois Disabled Person Identification Card holders and the preparation of jury lists under this Act shall, when requested by the Chief Judge or his designee, be accomplished through the services of the Administrative Office of the Illinois Courts.

(Source: P.A. 88-27.)

Section 15. The Jury Commission Act is amended by changing Sections 2 and 2a as follows:

(705 ILCS 310/2) (from Ch. 78, par. 25)

Sec. 2. In a county with a population of at least 3,000,000 in which a jury administrator or jury commissioners have been appointed, the jury administrator or commissioners, upon entering upon the duties of their office, and every ~~year~~ 4 years thereafter, shall prepare a list of all legal voters, all persons claiming an earned income tax credit under the Illinois Income Tax Act, and all Illinois driver's license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders of each town or precinct of the county possessing the necessary legal qualifications for jury duty, to be known as the jury list. In a county with a population of less than 3,000,000 in which a jury administrator or jury commissioners have been appointed, the jury administrator or jury commissioners upon entering upon the duties of their office, and each year thereafter, shall prepare a list of all Illinois driver's license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders, ~~and~~ all registered

voters and all persons claiming an earned income tax credit under the Illinois Income Tax Act of the county to be known as the jury list.

The jury list may be revised and amended annually in the discretion of the commissioners or jury administrator. Any record kept by the jury commissioners or jury administrator for over 4 years may be destroyed at their discretion. The name of each person on the list shall be entered in a book or books to be kept for that purpose, and opposite the name shall be entered his or her age and place of residence, giving street and number, if any.

The jury administrator, jury commissioners, or the Administrative Office of the Illinois Courts shall receive an up-to-date list of Illinois driver's license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders from the Secretary of State as provided in Section 1a of the Jury Act. In compiling the jury list, duplication of names shall be avoided to the extent practicable.

Whenever the name of a registered voter, ~~or~~ an Illinois driver's license, Illinois Identification Card, or Illinois Disabled Person Identification Card holder, or a person claiming an earned income tax credit under the Illinois Income Tax Act appearing upon this jury list is transferred to the active jury list in the manner prescribed by Section 8 of this Act, the following additional information shall be recorded after the name of the voter: the age of the voter, his or her occupation, if any, whether or not he or she is a resident residing with his or her family and whether or not he or she is an owner or life tenant of real estate in the county.

(Source: P.A. 90-482, eff. 1-1-98.)

(705 ILCS 310/2a) (from Ch. 78, par. 25a)

Sec. 2a. The combination of the lists of registered voters, driver's license, Illinois Identification Card, and Illinois Disabled Person Identification Card holders, and those persons claiming an earned income tax credit under the Illinois Income Tax Act and the preparation of jury lists under this Act shall, when requested by the Chief Judge or his designee, be accomplished through the services of the Administrative Office of the Illinois Courts.

(Source: P.A. 88-27.)

Section 90. The State Mandates Act is amended by adding Section 8.28 as follows:

(30 ILCS 805/8.28 new)

Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly."

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.

On motion of Senator Garrett, **House Bill No. 976** was recalled from the order of third reading to the order of second reading.

Senator Garrett offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 976 by replacing everything after the enacting clause with the following:

"Section 5. The State Mandates Act is amended by changing Sections 8 and 9.1 as follows:

(30 ILCS 805/8) (from Ch. 85, par. 2208)

Sec. 8. Exclusions, reimbursement application, review, appeals, and adjudication.

(a) Exclusions: Any of the following circumstances inherent to, or associated with, a mandate shall exclude the State from reimbursement liability under this Act. If the mandate (1) accommodates a request from local governments or organizations thereof; (2) imposes additional duties of a nature which can be carried out by existing staff and procedures at no appreciable net cost increase; (3) creates additional costs but also provides offsetting savings resulting in no aggregate increase in net costs; (4) imposes a cost that is wholly or largely recovered from Federal, State or other external financial aid; (5) imposes additional annual net costs of less than \$1,000 for each of the several local governments affected or less than \$50,000, in the aggregate, for all local governments affected.

The failure of the General Assembly to make necessary appropriations shall relieve the local government of the obligation to implement any service mandates, tax exemption mandates, and personnel mandates, as specified in Section 6, subsections (b), (c), (d) and (e), unless the exclusion

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provided for in this Section are explicitly stated in the Act establishing the mandate. In the event that funding is not provided for a State-mandated program by the General Assembly, the local government may implement or continue the program upon approval of its governing body. If the local government approves the program and funding is subsequently provided, the State shall reimburse the local governments only for costs incurred subsequent to the funding.

(b) Reimbursement Estimation and Appropriation Procedure.

(1) When a bill is introduced in the General Assembly, the Legislative Reference Bureau, hereafter referred to as the Bureau, shall determine whether such bill may require reimbursement to local governments pursuant to this Act. The Bureau shall make such determination known in the Legislative Synopsis and Digest.

In making the determination required by this subsection (b) the Bureau shall disregard any provision in a bill which would make inoperative the reimbursement requirements of Section 6 above, including an express exclusion of the applicability of this Act, and shall make the determination irrespective of any such provision.

(2) Any bill or amended bill which creates or expands a State mandate shall be subject to the provisions of "An Act requiring fiscal notes in relation to certain bills", approved June 4, 1965, as amended. The fiscal notes for such bills or amended bills shall include estimates of the costs to local government and the costs of any reimbursement required under this Act. In the case of bills having a potential fiscal impact on units of local government, the fiscal note shall be prepared by the Department. In the case of bills having a potential fiscal impact on school districts, the fiscal note shall be prepared by the State Superintendent of Education. In the case of bills having a potential fiscal impact on community college districts, the fiscal note shall be prepared by the Illinois Community College Board. Such fiscal note shall accompany the bill that requires State reimbursement and shall be prepared prior to any final action on such a bill by the assigned committee. However, if a fiscal note is not filed by the appropriate agency within 30 days of introduction of a bill, the bill can be heard in committee and advanced to the order of second reading. The bill shall then remain on second reading until a fiscal note is filed. A bill discharged from committee shall also remain on second reading until a fiscal note is provided by the appropriate agency.

(3) The estimate required by paragraph (2) above, shall include the amount estimated to be required during the first fiscal year of a bill's operation in order to reimburse local governments pursuant to Section 6, for costs mandated by such bill. In the event that the effective date of such a bill is not the first day of the fiscal year the estimate shall also include the amount estimated to be required for reimbursement for the next following full fiscal year.

(4) For the initial fiscal year, reimbursement funds shall be provided as follows: (i) any statute mandating such costs shall have a companion appropriation bill, and (ii) any executive order mandating such costs shall be accompanied by a bill to appropriate the funds therefor, or, alternatively an appropriation for such funds shall be included in the executive budget for the next following fiscal year.

In subsequent fiscal years appropriations for such costs shall be included in the Governor's budget or supplemental appropriation bills.

(c) Reimbursement Application and Disbursement Procedure.

(1) For the initial fiscal year during which reimbursement is authorized, each local government, or more than one local government wishing to join in filing a single claim, believing itself to be entitled to reimbursement under this Act shall submit to the Department, State Superintendent of Education or Illinois Community College Board within 60 days of the effective date of the mandate a claim for reimbursement accompanied by its estimate of the increased costs required by the mandate for the balance of the fiscal year. The Department, State Superintendent of Education or Illinois Community College Board shall review such claim and estimate and shall determine within 90 days after receiving a claim whether the claim is reimbursable or nonreimbursable as provided for in this Act and shall notify each local government that files a claim of its determination. Each local government that files a claim shall assume its claim is reimbursable if the Department, State Superintendent of Education, or Illinois Community College Board fails to notify each local government of its determination within 90 days after receiving a claim. The failure to notify each local government shall relieve the local government of the obligation to implement the mandate. The Department, State Superintendent of Education, or Illinois Community College Board shall apportion the reimbursable claim into 3 equal installments and shall direct the Comptroller to pay the installments at equal intervals throughout the remainder of the fiscal year from the funds appropriated for such purposes, provided that the Department, State Superintendent of Education or Illinois

Community College Board may (i) audit the records of any local government to verify the actual amount of the mandated cost, and (ii) reduce any claim determined to be excessive or unreasonable.

(2) For the subsequent fiscal years, local governments shall submit claims as specified above on or before October 1 of each year. The Department, State Superintendent of Education or Illinois Community College Board shall apportion the claims into 3 equal installments and shall direct the Comptroller to pay the first installment upon approval of the claims, with subsequent installments to follow on January 1 and March 1, such claims to be paid from funds appropriated therefor, provided that the Department, State Superintendent of Education or Illinois Community College Board (i) may audit the records of any local governments to verify the actual amount of the mandated cost, (ii) may reduce any claim, determined to be excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

(3) Any funds received by a local government pursuant to this Act may be used for any public purpose.

If the funds appropriated for reimbursement of the costs of local government resulting from the creation or expansion of a State mandate are less than the total of the approved claims, the amount appropriated shall be prorated among the local governments having approved claims.

(d) Appeals and Adjudication. ~~(4)~~ Local governments may appeal determinations made by State agencies acting pursuant to subsection (c) above. The appeal must be submitted to the State Mandates Board of Review created by Section 9.1 of this Act within 60 days following the date of receipt of the determination being appealed. The appeal must include evidence as to the extent to which the mandate has been carried out in an effective manner and executed without recourse to standards of staffing or expenditure higher than specified in the mandatory statute, if such standards are specified in the statute. The State Mandates Board of Review, after reviewing the evidence submitted to it, may increase or reduce the amount of a reimbursement claim. The decision of the State Mandates Board of Review shall be made within 90 days after receiving an appeal and shall be final subject to judicial review. The State Mandates Board of Review shall notify each local government that files an appeal of its decision. The failure to notify each local government of the decision within 90 days after receiving an appeal shall relieve the local government of the obligation to implement the mandate. However, if sufficient funds have not been appropriated, the Department shall notify the General Assembly of such cost, and appropriations for such costs shall be included in a supplemental appropriation bill. ~~(2) A local government may also appeal directly to the State Mandates Board of Review in those situations in which the Department of Commerce and Community Affairs does not act upon the local government's application for reimbursement or request for mandate determination submitted under this Act. The appeal must include evidence that the application for reimbursement or request for mandate determination was properly filed and should have been reviewed by the Department. An appeal may be made to the Board if the Department does not respond to a local government's application for reimbursement or request for mandate determination within 120 days after filing the application or request. In no case, however, may an appeal be brought more than one year after the application or request is filed with the Department.~~

(Source: P.A. 89-304, eff. 8-11-95; 89-626, eff. 8-9-96; revised 12-6-03.)

(30 ILCS 805/9.1) (from Ch. 85, par. 2209.1)

Sec. 9.1. State Mandates Board of Review. Beginning January 1, 1992 there shall be created the State Mandates Board of Review which shall consist of 5 members. The members of the Board shall be appointed as follows: 2 members shall be appointed by the State Comptroller and 3 members shall be appointed by the Governor, all by and with the advice and consent of the Senate. Members shall have experience in local government finance and shall serve for terms of 2 years ending on June 30 of odd numbered years. The members shall choose a chairman at their first meeting. The members shall receive reimbursement for expenses.

The Board shall hear appeals from local governments pursuant to this Act. The Board shall, by rule, prescribe the procedures for bringing appeals before it. The Board may apply to the Legislative Audit Commission to direct the Auditor General to audit the records of the local government to verify the actual costs of the state-mandated programs. If, after hearing the evidence, the Board approves any additional reimbursement for such local government, the chairman of the State Mandates Board of Review shall notify the agency responsible for distributing those funds and that agency shall direct the Comptroller to disburse such funds, subject to available appropriation.

The Board shall issue an annual report to the General Assembly which shall include a description of all appeals heard by the Board and any recommendations made by the Board during the preceding year.

(Source: P.A. 87-748.)

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.

On motion of Senator Cullerton, **House Bill No. 1018** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1018 by replacing the title with the following: "AN ACT in relation to crime stoppers programs."; and

by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Crime Stoppers Program Act.

Section 5. Definition. In this Act, "crime stoppers program" means a program that meets each of the following requirements:

(a) The purpose of the program is to obtain information on persons wanted for crimes and other criminal activity.

(b) The program has a law enforcement coordinator who forwards information obtained by the program to the appropriate law enforcement agency.

(c) The program allows the person submitting information to remain anonymous.

(d) The program operates in conjunction with a law enforcement agency or Office of the State's Attorney.

(e) The program has a civilian board of directors, is incorporated in the State of Illinois, and is certified by the Illinois State Crime Stoppers Association.

Section 10. Certification of programs. The Illinois State Crime Stoppers Association shall certify Crime Stoppers programs in this State. On or after the effective date of this Act, a person or agency that is not a certified Crime Stoppers program may not use the name "Crime Stoppers". The Attorney General may enforce this Section through injunctive or other appropriate relief.

Section 105. The Code of Civil Procedure is amended by adding Section 8-802.3 as follows:
(735 ILCS 5/8-802.3 new)

Sec. 8-802.3. Privilege for information provided to a Crime Stoppers program.

(a) Unless such nondisclosure will infringe the constitutional rights of the accused, the identity of a person who submits information of a criminal act to a Crime Stoppers program is privileged information and may not be disclosed in any judicial or administrative proceeding.

(b) Disclosure of information privileged under subsection (a) may be sought by subpoena or through a request for production, notice shall be given to the State's Attorney or other prosecuting authority and the relevant Crime Stoppers program, of the specific information sought upon issuance of the subpoena. Subpoenaed information or information sent through a request for production shall be sent directly to the court and the party responding to a subpoena or a request for production shall give notice to the State's Attorney or other prosecuting authority and the relevant Crime Stoppers program that such material has been sent to a court.

(c) If the State's Attorney or other prosecuting authority, or the relevant Crime Stoppers program, objects to the disclosure of the information sought by subpoena or by a request to produce, the court shall conduct an in camera inspection of the information, after which a hearing shall be required before such privileged information is disclosed. The party seeking disclosure of privileged information has the burden of proving by clear and convincing evidence at the hearing that the production of the privileged information is necessary to ensure the constitutional rights of the accused. If no objection is made within 30 days from the date of the notice required to be made by the party responding to the subpoena or request to produce, the court shall release the information to the party seeking its disclosure.

(d) Disclosure of the identity of witnesses to be produced at a hearing or trial shall not be denied under this Section. Nothing in this Section shall be construed to require a Crime Stoppers program to acquire

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or retain personal information from informants wishing to remain anonymous.

(e) In this Section, "Crime Stoppers program" means a program certified by the Illinois State Crime Stoppers Association under the Crime Stoppers Program Act."

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.

On motion of Senator Harmon, **House Bill No. 1041** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1041 by replacing everything after the enacting clause with the following:

"Section 5. The Uniform Commercial Code is amended by changing Section 9-525 as follows:

(810 ILCS 5/9-525)

Sec. 9-525. Fees.

(a) Initial financing statement or other record: general rule. Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this Part, other than an initial financing statement of the kind described in subsection (b), is:

- (1) \$20 if the record is communicated in writing and consists of one or two pages;
- (2) \$20 if the record is communicated in writing and consists of more than two pages;
- and
- (3) \$20 if the record is communicated by another medium authorized by filing-office rule.

(b) Initial financing statement: public-finance and manufactured-housing transactions. Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the following kind is:

- (1) \$20 if the financing statement indicates that it is filed in connection with a public-finance transaction;
- (2) \$20 if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) Number of names. The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) Response to information request. The fee for responding to a request for information from the filing office, including for issuing a certificate showing communicating whether there is on file any financing statement naming a particular debtor, is:

- (1) \$10 if the request is communicated in writing; and
- (2) \$10 if the request is communicated by another medium authorized by filing-office rule.

(e) Record of mortgage. This Section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Section 9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) Of the total money collected for each filing with the Secretary of State of an original financing statement, amended statement, continuation, or assignment, or for a release of collateral, \$12 of the filing fee shall be paid into the Secretary of State Special Services Fund. The remaining \$8 shall be deposited into the General Revenue Fund in the State treasury.

(Source: P.A. 91-893, eff. 7-1-01.)

Section 99. Effective date. This Act takes effect on July 1, 2004."

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.

On motion of Senator Cullerton, **House Bill No. 1075** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 1075 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by adding Section 155.42 as follows:
(215 ILCS 5/155.42 new)

Sec. 155.42. Arbitration of automobile physical damage claims. An insurer that amends, delivers, issues, or renews a policy of automobile insurance, as defined in Section 143.13, must arbitrate and settle all motor vehicle physical damage claims between the insurer and another insurer in accordance with an automobile subrogation program sponsored by the intercompany arbitration organization chosen by the insurer. Any arbitration decision shall be binding for the amount of damages not exceeding \$5,000.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 2 was held in the Committee on Rules.

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

On motion of Senator Cullerton, **House Bill No. 1080** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 1080 by replacing everything after the enacting clause with the following:

"Section 5. The Uniform TOD Security Registration Act is amended by changing Section 1 as follows:

(815 ILCS 10/1)

Sec. 1. Definitions. In this Act, unless the context otherwise requires:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(3) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(4) "Person" means an individual, a corporation, an organization, or other legal entity.

(5) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(6) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(7) "Register", including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(8) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(9) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(10) "Security account" means (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends

earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, or (ii) an investment management or custody account with a trust company or trust division of a bank with trust powers, including the securities in the account, a cash balance in the account, and cash, equivalents, interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death, or (iii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

(11) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States. (Source: P.A. 88-577, eff. 1-1-95.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 3 was referred to the Committee on Rules earlier today.

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

On motion of Senator Ronen, **House Bill No. 1086** was recalled from the order of third reading to the order of second reading.

Senator Ronen offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1086 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Health Facilities Planning Act is amended by changing Section 3 and by adding Section 8.5 as follows:

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

(Section scheduled to be repealed on July 1, 2008)

Sec. 3. Definitions. As used in this Act:

"Health care facilities" means and includes the following facilities and organizations:

1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;
2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;
3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;
4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof;
5. Kidney disease treatment centers, including a free-standing hemodialysis unit; and
6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other

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licensed health care professional, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" means the Health Facilities Planning Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means \$6,000,000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures; provided, however, that when a capital expenditure is for the construction or modification of a health and fitness center, "capital expenditure minimum" means the capital expenditure minimum for all other capital expenditures in effect on March 1, 2000, which shall be annually adjusted to reflect the increase in construction costs due to inflation.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or

rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Areawide health planning organization" or "Comprehensive health planning organization" means the health systems agency designated by the Secretary, Department of Health and Human Services or any successor agency.

"Local health planning organization" means those local health planning organizations that are designated as such by the areawide health planning organization of the appropriate area.

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Comprehensive health planning" means health planning concerned with the total population and all health and associated problems that affect the well-being of people and that encompasses health services, health manpower, and health facilities; and the coordination among these and with those social, economic, and environmental factors that affect health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

"Change of ownership of a health care facility" means a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control.

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.

"Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer.

(Source: P.A. 93-41, eff. 6-27-03.)

(20 ILCS 3960/8.5 new)

Sec. 8.5. Certificate of exemption for change of ownership of a health care facility; public notice and public hearing.

(a) Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department of Public Health shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an

opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Illinois Health Facilities Planning Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. The Department of Public Health shall not find that an application for change of ownership of a hospital is complete without a signed certification that for a period of 2 years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction.

For the purposes of this subsection, "newspaper of limited circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township, or community area, but does not include publications of professional and trade associations.

(b) If a public hearing is requested, it shall be held at least 15 days but no more than 30 days after the date of publication of the legal notice in the community in which the facility is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing."

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.

On motion of Senator Obama, **House Bill No. 2268** was recalled from the order of third reading to the order of second reading.

Senator Obama offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 , Amend House Bill 2268, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Health Care Justice Act.

Section 5. Legislative findings. The General Assembly recognizes that the U.S. census reported that on any given day an estimated 1,800,000 Illinoisans are without health insurance, and according to a March 2003 Robert Wood Johnson study, nearly 30% of the non-elderly Illinois population (3,122,000) during all or a large part of 2001 or 2002 were uninsured; a growing number of Illinoisans are under-insured, the consumer's share of the cost of health insurance is growing, coverage in benefit packages is decreasing, and record numbers of consumer complaints are lodged against managed care companies regarding access to necessary health care services. The General Assembly believes that the State must work to assure access to quality health care for all residents of Illinois, and at the same time, the State must contain health care costs while maintaining and improving the quality of health care. The General Assembly finds that community-based primary health care services provided by a wide range of qualified health care providers is the most effective way to achieve the health and well-being of residents of Illinois.

Section 10. Policy. It is a policy goal of the State of Illinois to insure that all residents have access to quality health care at costs that are affordable.

Section 15. Health care access plan. On or before July 1, 2007, the State of Illinois is strongly encouraged to implement a health care access plan that does the following:

- (1) provides access to a full range of preventive, acute, and long-term health care services;
- (2) maintains and improves the quality of health care services offered to Illinois residents;
- (3) provides portability of coverage, regardless of employment status;
- (4) provides core benefits for all Illinois residents;
- (5) encourages regional and local consumer participation;

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- (6) contains cost-containment measures;
- (7) provides a mechanism for reviewing and implementing multiple approaches to preventive medicine based on new technologies; and
- (8) promotes affordable coverage options for the small business market.

Section 20. Adequate Health Care Task Force. There is created an Adequate Health Care Task Force. The Task Force shall consist of 24 members, including the Director of Public Health or his or her designee, the Director of Aging or his or her designee, the Director of Public Aid or his or her designee, the Director of Insurance or his or her designee, and the Secretary of Human Services or his or her designee, all of whom shall be ex-officio non-voting members. The remaining 19 members of the Task Force shall be voting members and shall be appointed by the Governor, one from each congressional district in Illinois. These voting members shall be appointed to include representation of health care consumers, advocates for health care consumers, health care providers, health policy analysts, organized labor, the business community or a business association, economists, a statewide advocacy organization for persons with disabilities, physicians, nurses, social workers, a hospital or hospital network or association, an insurer or insurance group, and health care administrators. Appointment of members of the Task Force shall ensure proportional representation with respect to geography, ethnicity, race, gender, and age. The Task Force shall have a chairman and a vice-chairman who shall be elected by the voting members at the first meeting of the Task Force. The members of the Task Force shall be appointed within 30 days after the effective date of this Act. The departments of State government represented on the Task Force shall work cooperatively to provide administrative support for the Task Force; the Department of Public Health shall be the primary agency in providing that administrative support.

Section 25. Public hearings.

(a) The Task Force shall seek public input on the development of the health care access plan by holding a public hearing in each Illinois congressional district starting no later than January 1, 2005 and ending on November 30, 2005. Each State Representative and State Senator located in each such congressional district shall be invited to participate in the hearing in that district and help to gather input from interested parties. A web site for the Task Force shall be developed and linked to the Governor's home page for input to be provided and to keep the public informed. The Task Force's web site shall be specifically highlighted and have independent pages reporting all activities and linkages for people to access. Minutes from all of the Task Force's meetings shall be available on the web site, and a hard copy of this information shall also be made available for those persons without access to the Task Force's web site. The Task Force may also consult with health care providers, health care consumers, and other appropriate individuals and organizations to assist in the development of the health care access plan.

(b) Not later than September 1, 2004, the Illinois Department of Public Health, subject to appropriation or the availability of other funds for such purposes and using a public request for proposals process, shall contract with an independent research entity experienced in assessing health care reforms, health care financing, and health care delivery models. Upon the request of at least one-fourth of the Task Force members, the research entity shall be available to the Task Force for the purpose of assessing financial costs and the different health care models being discussed. All inquiries made by Task Force members to the independent research entity shall be made available on the Task Force's web site.

Section 30. Final report. No later than March 15, 2006, the Task Force shall submit its final report on the health care access plan to the General Assembly and the Governor. The final report may recommend a combination of more than one type of plan and alternative methods of funding the plan. The final report by the Task Force shall make recommendations for a health care access plan or plans that would provide access to a full range of preventive, acute, and long-term health care services to residents of the State of Illinois by July 1, 2007, including:

- (1) an integrated system or systems of health care delivery;
- (2) incentives to be used to contain costs;
- (3) core benefits that would be provided under each type of plan;
- (4) reimbursement mechanisms for health care providers;
- (5) administrative efficiencies;
- (6) mechanisms for generating spending priorities based on multidisciplinary standards of care established by verifiable replicated research studies demonstrating quality and cost effectiveness of interventions, providers, and facilities;
- (7) methods for reducing the cost of prescription drugs both as part of, and as

- separate from, the health care access plan;
- (8) appropriate reallocation of existing health care resources;
- (9) equitable financing of each proposal; and
- (10) recommendations concerning the delivery of long-term care services, including:
- (A) those currently covered under Title XIX of the Social Security Act;
 - (B) recommendations on potential cost sharing arrangements for long-term care services and the phasing in of such arrangements over time;
 - (C) consideration of the potential for utilizing informal care-giving by friends and family members;
 - (D) recommendations on cost-containment strategies for long-term care services;
 - (E) the possibility of using independent financing for the provision of long-term care services; and
 - (F) the projected cost to the State of Illinois over the next 20 years if no changes were made in the present system of delivering and paying for long-term care services.

Section 35. Further legislative action. No later than December 31, 2006, the General Assembly is strongly encouraged to vote on legislation that either enacts the Task Force's recommendation or provides for another health care access plan that meets the criteria set forth in Section 15.

Section 99. This Act takes effect July 1, 2004."

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.

On motion of Senator Cullerton, **House Bill No. 2981** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 2981 by replacing everything after the enacting clause with the following:

"Section 5. The Acupuncture Practice Act is amended by changing Sections 10, 15, 40, and 110 as follows:

(225 ILCS 2/10)

(Section scheduled to be repealed on January 1, 2008)

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

"Acupuncture" means the evaluation or treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of pre-sterilized, single-use, disposable needles, unless medically contraindicated, with or without the application of heat, electronic stimulation, or manual pressure to prevent or modify the perception of pain, to normalize physiological functions, or for the treatment of certain diseases or dysfunctions of the body. Acupuncture does not include radiology, electrosurgery, chiropractic technique, physical therapy, naprapathic technique, use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums, or vaccines, or determination of a differential diagnosis. An acupuncturist registered under this Act who is not also licensed as a physical therapist under the Illinois Physical Therapy Act shall not hold himself or herself out as being qualified to provide physical therapy or physiotherapy services. An acupuncturist shall refer to a licensed physician or dentist, any patient whose condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the acupuncturist.

"Acupuncturist" means a person who practices acupuncture and who is licensed by the Department.

"Board" means the Board of Acupuncture.

"Dentist" means a person licensed under the Illinois Dental Practice Act.

"Department" means the Department of Professional Regulation.

"Director" means the Director of Professional Regulation.

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

"Referral by written order" for purposes of this Act means a diagnosis, substantiated by signature of a

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physician or dentist, ~~identifying that a patient's condition and recommending treatment is such that it may be treated~~ by acupuncture as defined in this Act. The diagnosis shall remain in effect until changed by the physician or dentist who may, through express direction in the referral, shall maintain management of the patient.

"State" includes:

- (1) the states of the United States of America;
- (2) the District of Columbia; and
- (3) the Commonwealth of Puerto Rico.

(Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

(225 ILCS 2/15)

(Section scheduled to be repealed on January 1, 2008)

Sec. 15. Who may practice acupuncture. No person licensed under this Act may treat human ailments otherwise than by the practice of acupuncture as defined in this Act; ~~and no person licensed under this Act may practice acupuncture on another person without having on file a written referral order from a physician or dentist licensed in Illinois.~~ A physician or dentist licensed in Illinois may practice acupuncture. A physician or a dentist may refer by written order a patient to an acupuncturist for the practice of acupuncture as defined in this Act and may, through express direction in the referral, maintain management of the patient. Nothing in this Act shall be construed to require a referral of a patient to an acupuncturist for evaluation and treatment based on acupuncture principles and techniques as taught by schools accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or a similar accrediting body approved by the Department. An acupuncturist shall refer to a licensed physician or dentist any patient whose condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the acupuncturist.

(Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

(225 ILCS 2/40)

(Section scheduled to be repealed on January 1, 2008)

Sec. 40. Application for licensure. Applications for original licensure as an acupuncturist shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be refundable.

Until December 31, 2001, applicants shall submit with the application proof of passing the National Certification Commission for Acupuncture and Oriental Medicine ~~National Commission for the Certification of Acupuncturists~~ examination or a substantially equivalent examination approved by the Department or meeting any other qualifications established by the Department.

On and after January 1, 2002, the Department shall issue a license to an applicant who submits with the application proof of each of the following:

(1)(A) graduation from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine ~~National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine~~ or a similar accrediting body approved by the Department; or (B) completion of a comprehensive educational program approved by the Department; and

(2) passing the National Certification Commission for Acupuncture and Oriental Medicine ~~National Commission for the Certification of Acupuncturists'~~ examination or a substantially equivalent examination approved by the Department.

An applicant has 3 years from the date of his or her application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97; 90-723, eff. 1-1-99.)

(225 ILCS 2/110)

(Section scheduled to be repealed on January 1, 2008)

Sec. 110. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, place on probation, suspend, revoke or take other disciplinary action as deemed appropriate including the imposition of fines not to exceed \$5,000 for each violation, as the Department may deem proper, with regard to a license for any one or combination of the following causes:

(1) Violations of the Act or its rules.

(2) Conviction of any crime under the laws of any U.S. jurisdiction that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) directly related to the practice of the profession.

(3) Making any misrepresentation for the purpose of obtaining a license.

(4) Aiding or assisting another person in violating any provision of this Act or its rules.

(5) Failing to provide information within 60 days in response to a written request made by the Department which has been sent by certified or registered mail to the licensee's last known address.

(6) Discipline by another U.S. jurisdiction 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.

(7) Solicitation of professional services by means other than permitted under this Act.

(8) Failure to provide a patient with a copy of his or her record upon the written request of the patient.

(9) Gross negligence in the practice of acupuncture.

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in an acupuncturist's inability to practice with reasonable judgment, skill, or safety.

(11) A finding that licensure has been applied for or obtained by fraudulent means.

(12) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(13) 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 a neglected child as defined in the Abused and Neglected Child Reporting Act.

(14) Wilfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(15) The use of any words, abbreviations, figures or letters (such as Acupuncturist, Licensed Acupuncturist, Certified Acupuncturist, C.A., Act., Lic. Act., or Lic. Ac.) with the intention of indicating practice as a licensed acupuncturist without a valid license as an acupuncturist issued under this Act.

(16) Using testimonials or claims of superior quality of care to entice the public or advertising fee comparisons of available services with those of other persons providing acupuncture services.

(17) Advertising of professional services that the offeror of the services is not licensed to render. Advertising of professional services that contains false, fraudulent, deceptive, or misleading material or guarantees of success, statements that play upon the vanity or fears of the public, or statements that promote or produce unfair competition.

(18) Having treated ailments of human beings other than by the practice of acupuncture as defined in this Act, or having treated ailments of human beings as a licensed acupuncturist pursuant to independent of a written referral by written order that provides for management of the patient by ~~from a physician or dentist without having notified, or having failed to notify~~ the physician or dentist who established the diagnosis that the patient is receiving acupuncture treatment ~~pursuant to that diagnosis.~~

(19) Unethical, unauthorized, or unprofessional conduct as defined by rule.

(20) Physical illness including but not limited to deterioration through the aging process, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, and safety.

(21) Violation of the Health Care Worker Self-Referral Act.

The entry of an order by a circuit court establishing that any person holding a license under this Act is subject to involuntary admission or judicial admission as provided for in the Mental Health and Developmental Disabilities Code operates as an automatic suspension of that license. That person may have his or her license restored only upon the determination by a circuit court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient and upon the Board's recommendation to the Department that the license be restored. Where the circumstances so indicate, the Board may recommend to the Department that it require an examination prior to restoring a suspended license.

The Department may refuse to issue or renew the license of any person who fails to (i) file a return or to pay the tax, penalty or interest shown in a filed return or (ii) pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time that the requirements of that tax Act are satisfied.

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. 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.

(Source: P.A. 89-706, eff. 1-31-97; 90-61, eff. 7-3-97.)

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.

On motion of Senator Schoenberg, **House Bill No. 3589** was recalled from the order of third reading to the order of second reading.

Floor Amendments numbered 1, 2 and 3 were held in the Committee on Rules.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 4

AMENDMENT NO. 4. Amend House Bill 3589 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Stem Cell Research Act.

Section 5. Declaration of findings. The General Assembly finds and declares all of the following:

(1) An estimated 128 million Americans suffer from the crippling economic and psychological burden of chronic, degenerative, and acute diseases, including diabetes, Parkinson's disease, cancer, and Alzheimer's disease.

(2) The costs of treatment and lost productivity of chronic, degenerative, and acute diseases in the United States constitutes hundreds of billions of dollars every year. Estimates of the economic costs of these diseases do not account for the extreme human loss and suffering associated with these conditions.

(3) Stem cell research offers immense promise for developing new medical therapies for these debilitating diseases and a critical means to explore fundamental questions of biology. Stem cell

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research could lead to unprecedented treatments and potential cures for diabetes, Alzheimer's disease, cancer, and other diseases.

(4) The United States has historically been a haven for open scientific inquiry and technological innovation, and this environment, coupled with the commitment of public and private resources, has made the United States the preeminent world leader in biomedicine and biotechnology.

(5) Open scientific inquiry and publicly funded research will be essential to realizing the promise of stem cell research and to maintaining the United States' worldwide leadership in biomedicine and biotechnology. Publicly funded stem cell research, conducted under established standards of open scientific exchange, peer review, and public oversight, offers the most efficient and responsible means of fulfilling the promise of stem cells to provide regenerative medical therapies.

(6) Stem cell research, including the use of embryonic stem cells for medical research, raises significant ethical and policy concerns, and, while not unique, the ethical and policy concerns associated with stem cell research must be carefully considered.

(7) Public policy on stem cell research must balance ethical and medical considerations. The policy must be based on an understanding of the science associated with stem cell research and grounded on a thorough consideration of the ethical concerns regarding this research. Public policy on stem cell research must be carefully crafted to ensure that researchers have the tools necessary to fulfill the promise of stem cell research.

Section 10. Policy permitting research. The policy of the State of Illinois shall be as follows:

(1) That research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation, shall be permitted and that the ethical and medical implications of this research shall be given full consideration.

(2) That research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells, including somatic cell nuclear transplantation, shall be reviewed by an approved institutional review board, as determined by the Department of Public Health.

Section 15. Information requirement.

(a) An individual receiving fertility treatment shall have the option to choose among the available means of disposing of any human embryos remaining following the fertility treatment. These means may include storing the unused embryos, donating unused embryos to another individual, discarding the embryos, or donating the remaining embryos for research.

(b) An individual who elects to donate embryos remaining after fertility treatments for research shall provide written consent.

Section 20. Purchase or sale prohibited.

(a) A person may not knowingly, for valuable consideration, purchase or sell embryonic or cadaveric fetal tissue for research purposes.

(b) For the purposes of this Section, the giving or receiving of reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of the tissue does not constitute purchase or sale. This Section does not prohibit reimbursement for removal, storage, or transportation of embryonic or cadaveric fetal tissue for research purposes pursuant to this Act.

(c) A person who knowingly purchases or sells embryonic or cadaveric fetal tissue for research purposes in violation of subsection (a) of this Section is guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.

(d) Embryonic or cadaveric fetal tissue may be donated for research purposes pursuant to this Act.

Section 25. Liability.

(a) Except as provided in subsection (b) of this Section, procuring, furnishing, donating, processing, distributing, or using embryonic or cadaveric fetal tissue for research purposes pursuant to this Act is declared for the purposes of liability in tort or contract to be the rendition of a service by every person, firm, or corporation participating therein, whether or not remuneration is paid, and is declared not to be a sale of any such items and no warranties of any kind or description nor strict tort liability shall be applicable thereto.

(b) A person, firm, or corporation involved in the rendition of a service described in subsection (a) of

this Section warrants to the person, firm, or corporation receiving the service that he or she has exercised due care and followed professional standards of care in providing the service according to the current state of the medical arts.

Section 30. Cloning of human being; criminal penalty. A person who knowingly engages or assists, directly or indirectly, in the cloning of a human being is guilty of a Class 1 felony. As used in this Section, "cloning of a human being" means asexual human reproduction by implanting or attempting to implant the product of nuclear transplantation into a woman's uterus or a substitute for a woman's uterus."

And on that motion, a call of the roll was had resulting as follows:

Yeas 28; Nays 28; Present 1.

The following voted in the affirmative:

Clayborne	Geo-Karis	Martinez	Silverstein
Collins	Halvorson	Meeks	Trotter
Crotty	Harmon	Munoz	Welch
Cullerton	Hendon	Obama	Mr. President
del Valle	Hunter	Radogno	
DeLeo	Jacobs	Ronen	
Demuzio	Lightford	Sandoval	
Garrett	Link	Schoenberg	

The following voted in the negative:

Althoff	Jones, J.	Righter	Viverito
Bomke	Jones, W.	Risinger	Walsh
Brady	Lauzen	Roskam	Watson
Burzynski	Luechtefeld	Rutherford	Winkel
Cronin	Maloney	Sieben	
Dillard	Peterson	Soden	
Forby	Petka	Sullivan, D.	
Haine	Rauschenberger	Sullivan, J.	

The following voted present:

Wojcik

The motion lost.

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

On motion of Senator Haine, **House Bill No. 3882** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 3882 on page 1, lines 4 and 5, by deleting "by changing Section 2-8 and"; and

on page 1, by deleting lines 7 through 20.

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.

On motion of Senator Munoz, **House Bill No. 4012** was recalled from the order of third reading to the order of second reading.

Senator Munoz offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4012, on page 1, by replacing lines 21 through 23 with the following:

"recorded image of the vehicle, the vehicle operator, and the vehicle's registration plate while the driver is violating Section 11-605.1 of the Illinois Vehicle Code. The photograph or other recorded image must also"; and

on page 2, line 5, by replacing "11-605" with "11-605.1"; and

on page 2, line 28, by replacing "the offense" with "a violation of Section 11-605.1 of the Illinois Vehicle Code"; and

on page 3, line 6, after "The vehicle," by inserting "vehicle operator,"; and

on page 3, by replacing lines 30 through 34 with the following:

"(b) If the driver of the vehicle cannot be identified through the photograph or other recorded image, the owner is not liable for the fine."; and

on page 4, line 3, after "violation", by inserting "of Section 11-605.1 of the Illinois Vehicle Code"; and

on page 4, by replacing lines 29 through 32 with the following:

"Section 90. The Illinois Vehicle Code is amended by adding Section 11-605.2 as follows:
(625 ILCS 5/11-605.2 new)

Sec. 11-605.2. Delegation of authority to set a special speed limit while traveling through highway construction or maintenance zones.

(a) A local agency may delegate to its superintendent of highways the authority to set and post a reduced speed limit for a construction or maintenance zone, as defined in Section 11-605, under subsection (b) of that Section.

(b) If a superintendent of highways sets a reduced speed limit for a construction or maintenance zone in accordance with this Section, the local agency must maintain a record that indicates:

(1) the location of the construction or maintenance zone;

(2) the reduced speed limit set and posted for the construction or maintenance zone; and

(3) the dates during which the reduced speed limit was in effect.

Section 999. Effective date. This Act takes effect upon becoming law."; and

by deleting pages 5, 6, and 7.

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.

On motion of Senator W. Jones, **House Bill No. 4225** was recalled from the order of third reading to the order of second reading.

Senator W. Jones offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 4225 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 1D-1, 14-7.02, 14-8.01, 14-13.01, 18-4.3, and 29-5 and adding Section 14-7.02b as follows:

(105 ILCS 5/1D-1)

Sec. 1D-1. Block grant funding.

[May 12, 2004]

(a) For fiscal year 1996 and each fiscal year thereafter, the State Board of Education shall award to a school district having a population exceeding 500,000 inhabitants a general education block grant and an educational services block grant, determined as provided in this Section, in lieu of distributing to the district separate State funding for the programs described in subsections (b) and (c). The provisions of this Section, however, do not apply to any federal funds that the district is entitled to receive. In accordance with Section 2-3.32, all block grants are subject to an audit. Therefore, block grant receipts and block grant expenditures shall be recorded to the appropriate fund code for the designated block grant.

(b) The general education block grant shall include the following programs: REI Initiative, Summer Bridges, Preschool At Risk, K-6 Comprehensive Arts, School Improvement Support, Urban Education, Scientific Literacy, Substance Abuse Prevention, Second Language Planning, Staff Development, Outcomes and Assessment, K-6 Reading Improvement, 7-12 Continued Reading Improvement, Truants' Optional Education, Hispanic Programs, Agriculture Education, Parental Education, Prevention Initiative, Report Cards, and Criminal Background Investigations. Notwithstanding any other provision of law, all amounts paid under the general education block grant from State appropriations to a school district in a city having a population exceeding 500,000 inhabitants shall be appropriated and expended by the board of that district for any of the programs included in the block grant or any of the board's lawful purposes.

(c) The educational services block grant shall include the following programs: Bilingual, Regular and Vocational Transportation, State Lunch and Free Breakfast Program, Special Education (Personnel, ~~Extraordinary~~, Transportation, Orphanage, Private Tuition), funding for children requiring special education services, Summer School, Educational Service Centers, and Administrator's Academy. This subsection (c) does not relieve the district of its obligation to provide the services required under a program that is included within the educational services block grant. It is the intention of the General Assembly in enacting the provisions of this subsection (c) to relieve the district of the administrative burdens that impede efficiency and accompany single-program funding. The General Assembly encourages the board to pursue mandate waivers pursuant to Section 2-3.25g.

The funding program included in the educational services block grant for funding for children requiring special education services in each fiscal year shall be treated in that fiscal year as a payment to the school district in respect of services provided or costs incurred in the prior fiscal year, calculated in each case as provided in this Section. Nothing in this Section shall change the nature of payments for any program that, apart from this Section, would be or, prior to adoption or amendment of this Section, was on the basis of a payment in a fiscal year in respect of services provided or costs incurred in the prior fiscal year, calculated in each case as provided in this Section.

(d) For fiscal year 1996 and each fiscal year thereafter, the amount of the district's block grants shall be determined as follows: (i) with respect to each program that is included within each block grant, the district shall receive an amount equal to the same percentage of the current fiscal year appropriation made for that program as the percentage of the appropriation received by the district from the 1995 fiscal year appropriation made for that program, and (ii) the total amount that is due the district under the block grant shall be the aggregate of the amounts that the district is entitled to receive for the fiscal year with respect to each program that is included within the block grant that the State Board of Education shall award the district under this Section for that fiscal year. In the case of the Summer Bridges program, the amount of the district's block grant shall be equal to 44% of the amount of the current fiscal year appropriation made for that program.

(e) The district is not required to file any application or other claim in order to receive the block grants to which it is entitled under this Section. The State Board of Education shall make payments to the district of amounts due under the district's block grants on a schedule determined by the State Board of Education.

(f) A school district to which this Section applies shall report to the State Board of Education on its use of the block grants in such form and detail as the State Board of Education may specify.

(g) This paragraph provides for the treatment of block grants under Article 1C for purposes of calculating the amount of block grants for a district under this Section. Those block grants under Article 1C are, for this purpose, treated as included in the amount of appropriation for the various programs set forth in paragraph (b) above. The appropriation in each current fiscal year for each block grant under Article 1C shall be treated for these purposes as appropriations for the individual program included in that block grant. The proportion of each block grant so allocated to each such program included in it shall be the proportion which the appropriation for that program was of all appropriations for such purposes now in that block grant, in fiscal 1995.

Payments to the school district under this Section with respect to each program for which payments to

school districts generally, as of the date of this amendatory Act of the 92nd General Assembly, are on a reimbursement basis shall continue to be made to the district on a reimbursement basis, pursuant to the provisions of this Code governing those programs.

(h) Notwithstanding any other provision of law, any school district receiving a block grant under this Section may classify all or a portion of the funds that it receives in a particular fiscal year from any block grant authorized under this Code or from general State aid pursuant to Section 18-8.05 of this Code (other than supplemental general State aid) as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referred to in subsection (c) of this Section), regardless of the source or timing of the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any block grant or general State aid to be classified under this subsection (h) and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this subsection (h) by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this subsection (h) by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to the block grant as provided in this Section, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of provision of services.

(Source: P.A. 92-568, eff. 6-26-02; 92-651, eff. 7-11-02; 93-21, eff. 7-1-03; 93-53, eff. 7-1-03; revised 9-11-03.)

(105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

Sec. 14-7.02. Children attending private schools, public out-of-state schools, public school residential facilities or private special education facilities. The General Assembly recognizes that non-public schools or special education facilities provide an important service in the educational system in Illinois.

If because of his or her disability the special education program of a district is unable to meet the needs of a child and the child attends a non-public school or special education facility, a public out-of-state school or a special education facility owned and operated by a county government unit that provides special educational services required by the child and is in compliance with the appropriate rules and regulations of the State Superintendent of Education, the school district in which the child is a resident shall pay the actual cost of tuition for special education and related services provided during the regular school term and during the summer school term if the child's educational needs so require, excluding room, board and transportation costs charged the child by that non-public school or special education facility, public out-of-state school or county special education facility, or \$4,500 per year, whichever is less, and shall provide him any necessary transportation. "Nonpublic special education facility" shall include a residential facility, within or without the State of Illinois, which provides special education and related services to meet the needs of the child by utilizing private schools or public schools, whether located on the site or off the site of the residential facility.

The State Board of Education shall promulgate rules and regulations for determining when placement in a private special education facility is appropriate. Such rules and regulations shall take into account the various types of services needed by a child and the availability of such services to the particular child in the public school. In developing these rules and regulations the State Board of Education shall consult with the Advisory Council on Education of Children with Disabilities and hold public hearings to secure recommendations from parents, school personnel, and others concerned about this matter.

The State Board of Education shall also promulgate rules and regulations for transportation to and from a residential school. Transportation to and from home to a residential school more than once each school term shall be subject to prior approval by the State Superintendent in accordance with the rules and regulations of the State Board.

A school district making tuition payments pursuant to this Section is eligible for reimbursement from the State for the amount of such payments actually made in excess of the district per capita tuition charge for students not receiving special education services. Such reimbursement shall be approved in accordance with Section 14-12.01 and each district shall file its claims, computed in accordance with rules prescribed by the State Board of Education, on forms prescribed by the State Superintendent of Education. Data used as a basis of reimbursement claims shall be for the preceding regular school term and summer school term. Each school district shall transmit its claims to the State Board of Education on

or before August 15. The State Board of Education, before approving any such claims, shall determine their accuracy and whether they are based upon services and facilities provided under approved programs. Upon approval the State Board shall cause vouchers to be prepared showing the amount due for payment of reimbursement claims to school districts, for transmittal to the State Comptroller on the 30th day of September, December, and March, respectively, and the final voucher, no later than June 20. If the money appropriated by the General Assembly for such purpose for any year is insufficient, it shall be apportioned on the basis of the claims approved.

No child shall be placed in a special education program pursuant to this Section if the tuition cost for special education and related services increases more than 10 percent over the tuition cost for the previous school year or exceeds \$4,500 per year unless such costs have been approved by the Illinois Purchased Care Review Board. The Illinois Purchased Care Review Board shall consist of the following persons, or their designees: the Directors of Children and Family Services, Public Health, Public Aid, and the Governor's Office of Management and Budget ~~Bureau of the Budget~~; the Secretary of Human Services; the State Superintendent of Education; and such other persons as the Governor may designate. The Review Board shall establish rules and regulations for its determination of allowable costs and payments made by local school districts for special education, room and board, and other related services provided by non-public schools or special education facilities and shall establish uniform standards and criteria which it shall follow.

The Review Board shall establish uniform definitions and criteria for accounting separately by special education, room and board and other related services costs. The Board shall also establish guidelines for the coordination of services and financial assistance provided by all State agencies to assure that no otherwise qualified disabled child receiving services under Article 14 shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity provided by any State agency.

The Review Board shall review the costs for special education and related services provided by non-public schools or special education facilities and shall approve or disapprove such facilities in accordance with the rules and regulations established by it with respect to allowable costs.

The State Board of Education shall provide administrative and staff support for the Review Board as deemed reasonable by the State Superintendent of Education. This support shall not include travel expenses or other compensation for any Review Board member other than the State Superintendent of Education.

The Review Board shall seek the advice of the Advisory Council on Education of Children with Disabilities on the rules and regulations to be promulgated by it relative to providing special education services.

If a child has been placed in a program in which the actual per pupil costs of tuition for special education and related services based on program enrollment, excluding room, board and transportation costs, exceed \$4,500 and such costs have been approved by the Review Board, the district shall pay such total costs which exceed \$4,500. A district making such tuition payments in excess of \$4,500 pursuant to this Section shall be responsible for an amount in excess of \$4,500 equal to the district per capita tuition charge and shall be eligible for reimbursement from the State for the amount of such payments actually made in excess of the districts per capita tuition charge for students not receiving special education services.

If a child has been placed in an approved individual program and the tuition costs including room and board costs have been approved by the Review Board, then such room and board costs shall be paid by the appropriate State agency subject to the provisions of Section 14-8.01 of this Act. Room and board costs not provided by a State agency other than the State Board of Education shall be provided by the State Board of Education on a current basis. In no event, however, shall the State's liability for funding of these tuition costs begin until after the legal obligations of third party payors have been subtracted from such costs. If the money appropriated by the General Assembly for such purpose for any year is insufficient, it shall be apportioned on the basis of the claims approved. Each district shall submit estimated claims to the State Superintendent of Education. Upon approval of such claims, the State Superintendent of Education shall direct the State Comptroller to make payments on a monthly basis. The frequency for submitting estimated claims and the method of determining payment shall be prescribed in rules and regulations adopted by the State Board of Education. Such current state reimbursement shall be reduced by an amount equal to the proceeds which the child or child's parents are eligible to receive under any public or private insurance or assistance program. Nothing in this Section shall be construed as relieving an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a disabled child.

If it otherwise qualifies, a school district is eligible for the transportation reimbursement under Section

14-13.01 and for the reimbursement of tuition payments under this Section whether the non-public school or special education facility, public out-of-state school or county special education facility, attended by a child who resides in that district and requires special educational services, is within or outside of the State of Illinois. However, a district is not eligible to claim transportation reimbursement under this Section unless the district certifies to the State Superintendent of Education that the district is unable to provide special educational services required by the child for the current school year.

Nothing in this Section authorizes the reimbursement of a school district for the amount paid for tuition of a child attending a non-public school or special education facility, public out-of-state school or county special education facility unless the school district certifies to the State Superintendent of Education that the special education program of that district is unable to meet the needs of that child because of his disability and the State Superintendent of Education finds that the school district is in substantial compliance with Section 14-4.01.

Any educational or related services provided, pursuant to this Section in a non-public school or special education facility or a special education facility owned and operated by a county government unit shall be at no cost to the parent or guardian of the child. However, current law and practices relative to contributions by parents or guardians for costs other than educational or related services are not affected by this amendatory Act of 1978.

Reimbursement for children attending public school residential facilities shall be made in accordance with the provisions of this Section.

Notwithstanding any other provision of law, any school district receiving a payment under this Section or under Section ~~14-7.02b~~ ~~14-7.02a~~, 14-13.01, or 29-5 of this Code may classify all or a portion of the funds that it receives in a particular fiscal year or from general State aid pursuant to Section 18-8.05 of this Code as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referenced in this Section), regardless of the source or timing of the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any payments or general State aid to be classified under this paragraph and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this paragraph by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this paragraph by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to that funding program, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of providing services.

(Source: P.A. 91-764, eff. 6-9-00; 92-568, eff. 6-26-02; revised 8-23-03.)

(105 ILCS 5/14-7.02b new)

Sec. 14-7.02b. Funding for children requiring special education services. Payments to school districts for children requiring special education services documented in their individualized education program regardless of the program from which these services are received, excluding children claimed under Sections 14-7.02 and 14-7.03 of this Code, shall be made in accordance with this Section. Funds received under this Section may be used only for the provision of special educational facilities and services as defined in Section 14-1.08 of this Code.

The appropriation for fiscal year 2005 and thereafter shall be based upon the IDEA child count of all students in the State, excluding students claimed under Sections 14-7.02 and 14-7.03 of this Code, on December 1 of the fiscal year 2 years preceding, multiplied by 17.5% of the general State aid foundation level of support established for that fiscal year under Section 18-8.05 of this Code.

Beginning with fiscal year 2005 and through fiscal year 2007, individual school districts shall not receive payments under this Section totaling less than they received under the funding authorized under Section 14-7.02a of this Code during fiscal year 2004, pursuant to the provisions of Section 14-7.02a as they were in effect before the effective date of this amendatory Act of the 93rd General Assembly. This base level funding shall be computed first.

An amount equal to 85% of the funds remaining in the appropriation, after subtracting any base level funding for that fiscal year, shall be allocated to school districts based upon the district's average daily attendance reported for purposes of Section 18-8.05 of this Code for the preceding school year. Fifteen percent of the funds remaining in the appropriation, after subtracting any base level funding for that

fiscal year, shall be allocated to school districts based upon the district's low income eligible pupil count used in the calculation of general State aid under Section 18-8.05 of this Code for the same fiscal year. One hundred percent of the funds computed and allocated to districts under this Section shall be distributed and paid to school districts.

For individual students with disabilities whose program costs exceed 4 times the district's per capita tuition rate as calculated under Section 10-20.12a of this Code, the costs in excess of 4 times the district's per capita tuition rate shall be paid by the State Board of Education from unexpended IDEA discretionary funds originally designated for room and board reimbursement pursuant to Section 14-8.01 of this Code. The amount of tuition for these children shall be determined by the actual cost of maintaining classes for these children, using the per capita cost formula set forth in Section 14-7.01 of this Code, with the program and cost being pre-approved by the State Superintendent of Education. Reimbursement for individual students with disabilities whose program costs exceed 4 times the district's per capita tuition rate shall be claimed beginning with costs encumbered for the 2004-2005 school year and thereafter.

The State Board of Education shall prepare vouchers equal to one-fourth the amount allocated to districts, for transmittal to the State Comptroller on the 30th day of September, December, and March, respectively, and the final voucher, no later than June 20. The Comptroller shall make payments pursuant to this Section to school districts as soon as possible after receipt of vouchers. If the money appropriated from the General Assembly for such purposes for any year is insufficient, it shall be apportioned on the basis of the payments due to school districts.

Nothing in this Section shall be construed to decrease or increase the percentage of all special education funds that are allocated annually under Article 1D of this Code or to alter the requirement that a school district provide special education services.

Nothing in this amendatory Act of the 93rd General Assembly shall eliminate any reimbursement obligation owed as of the effective date of this amendatory Act of the 93rd General Assembly to a school district with in excess of 500,000 inhabitants.

(105 ILCS 5/14-8.01) (from Ch. 122, par. 14-8.01)

Sec. 14-8.01. Supervision of special education buildings and facilities. All special educational facilities, building programs, housing, and all educational programs for the types of disabled children defined in Section 14-1.02 shall be under the supervision of and subject to the approval of the State Board of Education.

All special education facilities, building programs, and housing shall comply with the building code authorized by Section 2-3.12.

All educational programs for children with disabilities as defined in Section 14-1.02 administered by any State agency shall be under the general supervision of the State Board of Education. Such supervision shall be limited to insuring that such educational programs meet standards jointly developed and agreed to by both the State Board of Education and the operating State agency, including standards for educational personnel.

Any State agency providing special educational programs for children with disabilities as defined in Section 14-1.02 shall promulgate rules and regulations, in consultation with the State Board of Education and pursuant to the Illinois Administrative Procedure Act as now or hereafter amended, to insure that all such programs comply with this Section and Section 14-8.02.

No otherwise qualified disabled child receiving special education and related services under Article 14 shall solely by reason of his or her disability be excluded from the participation in or be denied the benefits of or be subjected to discrimination under any program or activity provided by a State agency.

State agencies providing special education and related services, including room and board, either directly or through grants or purchases of services shall continue to provide these services according to current law and practice. Room and board costs not provided by a State agency other than the State Board of Education shall be provided by the State Board of Education to the extent of available funds. An amount equal to one-half of the State education agency's share of IDEA PART B federal monies, or so much thereof as may actually be needed, shall annually be appropriated to pay for the additional costs of providing for room and board for those children placed pursuant to Section 14-7.02 of this ~~Code Act~~ and, after all such room and board costs are paid, for similar expenditures for children served pursuant to Section 14-7.02 or 14-7.02b ~~14-7.02a~~ of this Code. Any such excess room and board funds must first be directed to those school districts with students costing in excess of 4 times the district's per capita tuition charge and then to Act, based in community based programs that serve as alternatives to residential placements.

Beginning with Fiscal Year 1997 and continuing through Fiscal Year 2000, 100% of the former Chapter I, Section 89-313 federal funds shall be allocated by the State Board of Education in the same

manner as IDEA, PART B "flow through" funding to local school districts, joint agreements, and special education cooperatives for the maintenance of instructional and related support services to students with disabilities. However, beginning with Fiscal Year 1998, the total IDEA Part B discretionary funds available to the State Board of Education shall not exceed the maximum permissible under federal law or 20% of the total federal funds available to the State, whichever is less. In no case shall the aggregate IDEA Part B discretionary funds received by the State Board of Education exceed the amount of IDEA Part B discretionary funds available to the State Board of Education for Fiscal Year 1997, excluding any carryover funds from prior fiscal years, increased by 3% for Fiscal Year 1998 and increased by an additional 3% for each fiscal year thereafter. After all room and board payments and similar expenditures are made by the State Board of Education as required by this Section, the State Board of Education may use the remaining funds for administration and for providing discretionary activities. However, the State Board of Education may use no more than 25% of its available IDEA Part B discretionary funds for administrative services.

Special education and related services included in the child's individualized educational program which are not provided by another State agency shall be included in the special education and related services provided by the State Board of Education and the local school district.

The State Board of Education with the advice of the Advisory Council shall prescribe the standards and make the necessary rules and regulations for special education programs administered by local school boards, including but not limited to establishment of classes, training requirements of teachers and other professional personnel, eligibility and admission of pupils, the curriculum, class size limitation, building programs, housing, transportation, special equipment and instructional supplies, and the applications for claims for reimbursement. The State Board of Education shall promulgate rules and regulations for annual evaluations of the effectiveness of all special education programs and annual evaluation by the local school district of the individualized educational program for each child for whom it provides special education services.

A school district is responsible for the provision of educational services for all school age children residing within its boundaries excluding any student placed under the provisions of Section 14-7.02 or any disabled student whose parent or guardian lives outside of the State of Illinois as described in Section 14-1.11.

(Source: P.A. 89-397, eff. 8-20-95; 89-622, eff. 8-9-96; 90-547, eff. 12-1-97.)

(105 ILCS 5/14-13.01) (from Ch. 122, par. 14-13.01)

Sec. 14-13.01. Reimbursement payable by State; Amounts. Reimbursement for furnishing special educational facilities in a recognized school to the type of children defined in Section 14-1.02 shall be paid to the school districts in accordance with Section 14-12.01 for each school year ending June 30 by the State Comptroller out of any money in the treasury appropriated for such purposes on the presentation of vouchers by the State Board of Education.

The reimbursement shall be limited to funds expended for construction and maintenance of special education facilities designed and utilized to house instructional programs, diagnostic services, other special education services for children with disabilities and reimbursement as provided in Section 14-13.01. There shall be no reimbursement for construction and maintenance of any administrative facility separated from special education facilities designed and utilized to house instructional programs, diagnostic services and other special education services for children with disabilities.

(a) For children who have not been identified as eligible for special education and for eligible children with physical disabilities, including all eligible children whose placement has been determined under Section 14-8.02 in hospital or home instruction, 1/2 of the teacher's salary but not more than \$1,000 annually per child or \$8,000 per teacher for the 1985-1986 school year and thereafter, whichever is less. Children to be included in any reimbursement under this paragraph must regularly receive a minimum of one hour of instruction each school day, or in lieu thereof a minimum of 5 hours of instruction in each school week in order to qualify for full reimbursement under this Section. If the attending physician for such a child has certified that the child should not receive as many as 5 hours of instruction in a school week, however, reimbursement under this paragraph on account of that child shall be computed proportionate to the actual hours of instruction per week for that child divided by 5.

(b) For children described in Section 14-1.02, 4/5 of the cost of transportation for each such child, whom the State Superintendent of Education determined in advance requires special transportation service in order to take advantage of special educational facilities. Transportation costs shall be determined in the same fashion as provided in Section 29-5. For purposes of this subsection (b), the dates for processing claims specified in Section 29-5 shall apply.

(c) For each professional worker excluding those included in subparagraphs (a), (d), (e), and (f) of this Section, the annual sum of \$8,000 for the 1985-1986 school year and thereafter.

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(d) For one full time qualified director of the special education program of each school district which maintains a fully approved program of special education the annual sum of \$8,000 for the 1985-1986 school year and thereafter. Districts participating in a joint agreement special education program shall not receive such reimbursement if reimbursement is made for a director of the joint agreement program.

(e) For each school psychologist as defined in Section 14-1.09 the annual sum of \$8,000 for the 1985-1986 school year and thereafter.

(f) For each qualified teacher working in a fully approved program for children of preschool age who are deaf or hard-of-hearing the annual sum of \$8,000 for the 1985-1986 school year and thereafter.

(g) For readers, working with blind or partially seeing children 1/2 of their salary but not more than \$400 annually per child. Readers may be employed to assist such children and shall not be required to be certified but prior to employment shall meet standards set up by the State Board of Education.

(h) For necessary non-certified employees working in any class or program for children defined in this Article, 1/2 of the salary paid or \$2,800 annually per employee, whichever is less.

The State Board of Education shall set standards and prescribe rules for determining the allocation of reimbursement under this section on less than a full time basis and for less than a school year.

When any school district eligible for reimbursement under this Section operates a school or program approved by the State Superintendent of Education for a number of days in excess of the adopted school calendar but not to exceed 235 school days, such reimbursement shall be increased by 1/185 of the amount or rate paid hereunder for each day such school is operated in excess of 185 days per calendar year.

Notwithstanding any other provision of law, any school district receiving a payment under this Section or under Section 14-7.02, ~~14-7.02b~~ ~~14-7.02a~~, or 29-5 of this Code may classify all or a portion of the funds that it receives in a particular fiscal year or from general State aid pursuant to Section 18-8.05 of this Code as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referenced in this Section), regardless of the source or timing of the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any payments or general State aid to be classified under this paragraph and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this paragraph by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this paragraph by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to that funding program, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of providing services.

(Source: P.A. 92-568, eff. 6-26-02.)

(105 ILCS 5/18-4.3) (from Ch. 122, par. 18-4.3)

Sec. 18-4.3. Summer school grants. Grants shall be determined for pupil attendance in summer schools conducted under Sections 10-22.33A and 34-18 and approved under Section 2-3.25 in the following manner.

The amount of grant for each accredited summer school attendance pupil shall be obtained by dividing the total amount of apportionments determined under Section 18-8.05 by the actual number of pupils in average daily attendance used for such apportionments. The number of credited summer school attendance pupils shall be determined (a) by counting clock hours of class instruction by pupils enrolled in grades 1 through 12 in approved courses conducted at least 60 clock hours in summer sessions; (b) by dividing such total of clock hours of class instruction by 4 to produce days of credited pupil attendance; (c) by dividing such days of credited pupil attendance by the actual number of days in the regular term as used in computation in the general apportionment in Section 18-8.05; and (d) by multiplying by 1.25.

The amount of the grant for a summer school program approved by the State Superintendent of Education for children with disabilities, as defined in Sections 14-1.02 through 14-1.07, shall be determined in the manner contained above except that average daily membership shall be utilized in lieu of average daily attendance.

In the case of an apportionment based on summer school attendance or membership pupils, the claim therefor shall be presented as a separate claim for the particular school year in which such summer school session ends. On or before November 1 of each year the superintendent of each eligible school

district shall certify to the State Superintendent of Education the claim of the district for the summer session just ended. Failure on the part of the school board to so certify shall constitute a forfeiture of its right to such payment. The State Superintendent of Education shall transmit to the Comptroller no later than December 15th of each year vouchers for payment of amounts due school districts for summer school. The State Superintendent of Education shall direct the Comptroller to draw his warrants for payments thereof by the 30th day of December. If the money appropriated by the General Assembly for such purpose for any year is insufficient, it shall be apportioned on the basis of claims approved.

However, notwithstanding the foregoing provisions, for each fiscal year the money appropriated by the General Assembly for the purposes of this Section shall only be used for grants for approved summer school programs for those children with disabilities served pursuant to Section Sections 14-7.02 or 14-7.02b and 14-7.02a of this the School Code.

(Source: P.A. 90-548, eff. 1-1-98; 91-764, eff. 6-9-00.)

(105 ILCS 5/29-5) (from Ch. 122, par. 29-5)

Sec. 29-5. Reimbursement by State for transportation. Any school district, maintaining a school, transporting resident pupils to another school district's vocational program, offered through a joint agreement approved by the State Board of Education, as provided in Section 10-22.22 or transporting its resident pupils to a school which meets the standards for recognition as established by the State Board of Education which provides transportation meeting the standards of safety, comfort, convenience, efficiency and operation prescribed by the State Board of Education for resident pupils in kindergarten or any of grades 1 through 12 who: (a) reside at least 1 1/2 miles as measured by the customary route of travel, from the school attended; or (b) reside in areas where conditions are such that walking constitutes a hazard to the safety of the child when determined under Section 29-3; and (c) are transported to the school attended from pick-up points at the beginning of the school day and back again at the close of the school day or transported to and from their assigned attendance centers during the school day, shall be reimbursed by the State as hereinafter provided in this Section.

The State will pay the cost of transporting eligible pupils less the assessed valuation in a dual school district maintaining secondary grades 9 to 12 inclusive times a qualifying rate of .05%; in elementary school districts maintaining grades K to 8 times a qualifying rate of .06%; in unit districts maintaining grades K to 12 times a qualifying rate of .07%. To be eligible to receive reimbursement in excess of 4/5 of the cost to transport eligible pupils, a school district shall have a Transportation Fund tax rate of at least .12%. If a school district does not have a .12% Transportation Fund tax rate, the amount of its claim in excess of 4/5 of the cost of transporting pupils shall be reduced by the sum arrived at by subtracting the Transportation Fund tax rate from .12% and multiplying that amount by the districts equalized or assessed valuation, provided, that in no case shall said reduction result in reimbursement of less than 4/5 of the cost to transport eligible pupils.

The minimum amount to be received by a district is \$16 times the number of eligible pupils transported.

Any such district transporting resident pupils during the school day to an area vocational school or another school district's vocational program more than 1 1/2 miles from the school attended, as provided in Sections 10-22.20a and 10-22.22, shall be reimbursed by the State for 4/5 of the cost of transporting eligible pupils.

School day means that period of time which the pupil is required to be in attendance for instructional purposes.

If a pupil is at a location within the school district other than his residence for child care purposes at the time for transportation to school, that location may be considered for purposes of determining the 1 1/2 miles from the school attended.

Claims for reimbursement that include children who attend any school other than a public school shall show the number of such children transported.

Claims for reimbursement under this Section shall not be paid for the transportation of pupils for whom transportation costs are claimed for payment under other Sections of this Act.

The allowable direct cost of transporting pupils for regular, vocational, and special education pupil transportation shall be limited to the sum of the cost of physical examinations required for employment as a school bus driver; the salaries of full or part-time drivers and school bus maintenance personnel; employee benefits excluding Illinois municipal retirement payments, social security payments, unemployment insurance payments and workers' compensation insurance premiums; expenditures to independent carriers who operate school buses; payments to other school districts for pupil transportation services; pre-approved contractual expenditures for computerized bus scheduling; the cost of gasoline, oil, tires, and other supplies necessary for the operation of school buses; the cost of converting buses' gasoline engines to more fuel efficient engines or to engines which use alternative

energy sources; the cost of travel to meetings and workshops conducted by the regional superintendent or the State Superintendent of Education pursuant to the standards established by the Secretary of State under Section 6-106 of the Illinois Vehicle Code to improve the driving skills of school bus drivers; the cost of maintenance of school buses including parts and materials used; expenditures for leasing transportation vehicles, except interest and service charges; the cost of insurance and licenses for transportation vehicles; expenditures for the rental of transportation equipment; plus a depreciation allowance of 20% for 5 years for school buses and vehicles approved for transporting pupils to and from school and a depreciation allowance of 10% for 10 years for other transportation equipment so used. Each school year, if a school district has made expenditures to the Regional Transportation Authority or any of its service boards, a mass transit district, or an urban transportation district under an intergovernmental agreement with the district to provide for the transportation of pupils and if the public transit carrier received direct payment for services or passes from a school district within its service area during the 2000-2001 school year, then the allowable direct cost of transporting pupils for regular, vocational, and special education pupil transportation shall also include the expenditures that the district has made to the public transit carrier. In addition to the above allowable costs school districts shall also claim all transportation supervisory salary costs, including Illinois municipal retirement payments, and all transportation related building and building maintenance costs without limitation.

Special education allowable costs shall also include expenditures for the salaries of attendants or aides for that portion of the time they assist special education pupils while in transit and expenditures for parents and public carriers for transporting special education pupils when pre-approved by the State Superintendent of Education.

Indirect costs shall be included in the reimbursement claim for districts which own and operate their own school buses. Such indirect costs shall include administrative costs, or any costs attributable to transporting pupils from their attendance centers to another school building for instructional purposes. No school district which owns and operates its own school buses may claim reimbursement for indirect costs which exceed 5% of the total allowable direct costs for pupil transportation.

The State Board of Education shall prescribe uniform regulations for determining the above standards and shall prescribe forms of cost accounting and standards of determining reasonable depreciation. Such depreciation shall include the cost of equipping school buses with the safety features required by law or by the rules, regulations and standards promulgated by the State Board of Education, and the Department of Transportation for the safety and construction of school buses provided, however, any equipment cost reimbursed by the Department of Transportation for equipping school buses with such safety equipment shall be deducted from the allowable cost in the computation of reimbursement under this Section in the same percentage as the cost of the equipment is depreciated.

On or before July 10, annually, the chief school administrator for the district shall certify to the regional superintendent of schools upon forms prescribed by the State Superintendent of Education the district's claim for reimbursement for the school year ended on June 30 next preceding. The regional superintendent of schools shall check all transportation claims to ascertain compliance with the prescribed standards and upon his approval shall certify not later than July 25 to the State Superintendent of Education the regional report of claims for reimbursements. The State Superintendent of Education shall check and approve the claims and prepare the vouchers showing the amounts due for district reimbursement claims. Beginning with the 1977 fiscal year, the State Superintendent of Education shall prepare and transmit the first 3 vouchers to the Comptroller on the 30th day of September, December and March, respectively, and the final voucher, no later than June 15.

If the amount appropriated for transportation reimbursement is insufficient to fund total claims for any fiscal year, the State Board of Education shall reduce each school district's allowable costs and flat grant amount proportionately to make total adjusted claims equal the total amount appropriated.

For purposes of calculating claims for reimbursement under this Section for any school year beginning July 1, 1998, or thereafter, the equalized assessed valuation for a school district used to compute reimbursement shall be computed in the same manner as it is computed under paragraph (2) of subsection (G) of Section 18-8.05.

All reimbursements received from the State shall be deposited into the district's transportation fund or into the fund from which the allowable expenditures were made.

Notwithstanding any other provision of law, any school district receiving a payment under this Section or under Section 14-7.02, ~~14-7.02b~~ ~~44-7.02a~~, or 14-13.01 of this Code may classify all or a portion of the funds that it receives in a particular fiscal year or from general State aid pursuant to Section 18-8.05 of this Code as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referenced in this Section), regardless of the source or timing of the receipt. The district may

not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any payments or general State aid to be classified under this paragraph and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this paragraph by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this paragraph by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to that funding program, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of providing services.

Any school district with a population of not more than 500,000 must deposit all funds received under this Article into the transportation fund and use those funds for the provision of transportation services.

(Source: P.A. 92-568, eff. 6-26-02; 93-166, eff. 7-10-03; 93-663, eff. 2-17-04.)

(105 ILCS 5/14-7.02a rep.)

Section 10. The School Code is amended by repealing Section 14-7.02a.

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.

On motion of Senator Harmon, **House Bill No. 4108** was recalled from the order of third reading to the order of second reading.

Senator W. Jones offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4108 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Addison Creek Restoration Commission Act.

Section 5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Village of Bellwood, the City of Northlake, the Village of Melrose Park, the Village of Stone Park, the Village of Broadview, the Village of Westchester, and the Village of North Riverside are, by reason of the location of Addison Creek, adversely affected by a floodplain designated by the Federal Emergency Management Agency (FEMA). Certain development opportunities may exist in the project area that would stabilize and enhance the tax base of existing communities, maintain and revitalize existing commerce and industry, and promote comprehensive planning within and between communities. The relocation of the retention pond, restoration of creek banks, and enhanced fencing for security and safety around areas of Addison Creek is important for the orderly expansion of industry and commerce and for progress of the region. The ultimate goal is to get FEMA to reconsider the size of the floodplain. Once this is accomplished, it will greatly reduce the cost of insurance to homeowners and increase the value of property within the current designated floodplain.

Section 10. Creation; duration. There is created a body politic and corporate, a unit of local government, named the Addison Creek Restoration Commission. The territory of the Commission boundaries consists of the corporate borders of the Village of Bellwood, the City of Northlake, the Village of Melrose Park, the Village of Stone Park, the Village of Broadview, the Village of Westchester, and the Village of North Riverside. The Commission shall continue in existence until the accomplishment of its objective, the relocation of Addison Creek retention pond within the Village of Bellwood, the restoration of creek beds, and enhanced fencing for security and safety around areas of Addison Creek, or until the Commission officially resolves that it is impossible or economically unfeasible to fulfill the objectives.

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Section 15. Acceptance of grants and appropriations. The Commission may apply for and accept grants and appropriations from the federal government and from the State of Illinois or any agency or instrumentality thereof to be used for the purposes of the Commission and may enter into any agreement in relation to these grants and appropriations. The Commission may also accept from the State, any State agency, department, or commission, any unit of local government, any railroad, school authority, or jointly therefrom, grants of funds or services for any of the purposes of this Act.

Section 20. Taxing powers. The Commission shall not have the power to levy real property taxes for any purpose whatsoever.

Section 25. Board; composition; qualification; compensation and expenses. The Commission shall be governed by a board consisting of 7 members. The members of the Commission shall serve without compensation, but may be reimbursed from the affected municipalities for actual expenses incurred by them in the performance of duties prescribed by the Commission.

Section 30. Appointments; tenure; oaths; vacancies. One member shall be appointed by the village president of the Village of Bellwood, one member shall be appointed by the village president of the Village of Westchester, one member shall be appointed by the mayor of the City of Northlake, one member shall be appointed by the village president of the Village of Melrose Park, one member shall be appointed by the village president of the Village of Broadview, one member shall be appointed by the village president of the Village of Stone Park, and one member shall be appointed by the village president of the Village of North Riverside. The office of the chair shall rotate annually. Each representative member of the Commission shall take and subscribe to the constitutional oath of office and file it with the Secretary of State. If a vacancy occurs by death, resignation, or otherwise, the vacancy shall be filled by the appropriate selecting party. Each member of the Commission shall hold office for a term of 3 years from the third Monday in January of the year in which his predecessor's term expires. Each member may continue to serve an additional 3-year term unless that member is replaced by appointment within 60 days after the end of his or her term. Of the members initially appointed under this Section, 2 members shall be appointed for terms of office that expire on the third Monday of January, 2006, 2 members shall be appointed for terms of office that expire on the third Monday of January, 2007, 2 members shall be appointed for a term of office that expire on the third Monday of January, 2008, and one member shall be appointed for a term of office that expires on the third Monday of January, 2009. Each respective successor shall be appointed for a term of 3 years from the third Monday of January of the year in which his or her predecessor's term expires.

Section 35. Removal of members. Any member of the Commission may be immediately removed from office by the appropriate selecting party or by a majority vote of the Commission in case of incompetency, neglect of duty, or malfeasance of office or otherwise upon 15 days written notice to the other members. Absence from any 3 consecutive regular meetings of the Commission is deemed to be neglect of duty.

Section 40. Organization; chair and temporary secretary. As soon as possible after the appointment of the initial members, the Commission shall organize for the transaction of business, select a chair and a temporary secretary from its own number, and adopt bylaws to govern its proceedings. The initial chair and successors shall be elected by the Commission from time to time from among members. The Commission may act through its members by entering into an agreement that a member act on the Commission's behalf, in which instance the act or performance directed shall be deemed to be exclusively of, for, and by the Commission and not the individual act of the member or its represented person.

Section 45. Meetings; quorum; resolutions. Regular meetings of the Commission shall be held at least quarterly, the time and place of those meetings to be fixed by the Commission. Special meetings may be called by the chair or by any 4 members of the Commission by giving notice in writing, stating the time, place, and purpose of the special meeting. The notice shall be served by certified letter deposited in the U.S. mail at least 48 hours before the meeting. If there is no vacancy on the Commission, 5 members of the Commission shall constitute a quorum to transact business; otherwise, a majority of the Commission shall constitute a quorum to transact business, and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission. Every finding, order, or decision

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approved by a majority of the members of the Commission shall be deemed to be the finding, order, or decision of the Commission. All action of the Commission shall be by resolution and, except as otherwise provided in this Act, the affirmative vote of at least a majority of the total available votes is necessary for the adoption of any resolution. The weight of each member's vote shall be based on the assessed value of the property in the municipality from which the member was recommended in the flood plain designated by FEMA. The chair may vote on any and all matters coming before the Commission.

Section 50. Secretary and treasurer; oaths; bond of treasurer. The Commission may appoint a secretary and a treasurer, who need not be members of the Commission, to hold office at the pleasure of the Commission and may fix their duties and compensation, which shall be paid by the affected municipalities. Before entering upon the duties of their respective offices, the secretary and treasurer must take and subscribe to the constitutional oath of office, and the treasurer must execute a bond with corporate sureties to be approved by the Commission. The bond shall be payable to the Commission in whatever penal sum may be directed by the Commission conditioned upon the faithful performance of the duties of the office and the payment of all money received by the treasurer according to law and the orders of the Commission. The Commission may, at any time, require a new bond for the treasurer in any penal sum determined by the Commission.

Section 55. Deposit and withdrawal of funds; signatures. All funds deposited by the treasurer in any bank or savings and loan association shall be placed in the name of the Commission and may be withdrawn or paid out only by check or draft upon the bank or savings and loan association that is signed by the treasurer and countersigned by the chair of the Commission. Subject to prior approval of the designations by a majority of the Commission, the chair may designate any other member or any officer of the Commission to affix the signature of the treasurer to any Commission check or draft for payment of salaries or wages and for payment of any other obligation of not more than \$2,500. No bank or savings and loan association may receive public funds as permitted by this Section unless it has complied with the requirements established under Section 6 of the Public Funds Investment Act.

Section 60. Delivery of check after executing officer ceases to hold office. If any officer whose signature appears upon any check or draft issued under this Act ceases to hold office before the delivery of the check or draft to the payee, the officer's signature nevertheless shall be valid and sufficient for all purposes with the same effect as if the officer had remained in office until delivery of the check or draft.

Section 65. Rules. The Commission may adopt any rules that are proper or necessary and to carry into effect the powers granted to it.

Section 70. Fiscal year. The Commission shall designate its fiscal year.

Section 75. Reports and financial statements. Within 60 days after the end of its fiscal year, the Commission must cause to be prepared by a certified public accountant a complete and detailed report and financial statement of the operations and assets and liabilities as it relates to the Addison Creek Restoration project. A reasonably sufficient number of copies of the report shall be prepared for distribution to persons interested, upon request, and a copy of the report shall be filed with the Department of Natural Resources and with the county clerk of Cook County.

Section 80. Construction. Nothing in this Act shall be construed to confer upon the Commission the right, power, or duty to order or enforce the abandonment of any present property or the use in substitution.

Section 85. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 90. Repeal. This Act is repealed on January 1, 2010.

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

The motion prevailed.
And the amendment was adopted and ordered printed.

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

On motion of Senator Cullerton, **House Bill No. 4318** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 4318 on page 2, by deleting lines 10 through 14; and on page 2, line 15, by replacing "(E)" with "(D)"; and on page 2, line 19, by replacing "(F)" with "(E)".

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.

On motion of Senator Munoz, **House Bill No. 4788** was recalled from the order of third reading to the order of second reading.

Senator Munoz offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 4788 on page 1, line 8, by inserting after "grounds" the following:

"or public property adjacent to school grounds"; and

on page 1, by replacing line 10 with the following:

"recruitment on school grounds or public property adjacent to school grounds when on school grounds or public property adjacent to school grounds, he or she"; and

on page 1, line 15, by inserting after "grounds" the following:

"or public property adjacent to school grounds".

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.

On motion of Senator Sieben, **House Bill No. 5023** was recalled from the order of third reading to the order of second reading.

Senator Sieben offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 5023 on page 1, by replacing lines 10 and 11 with the following:

"downtown" means the traditional center business district of a municipality that (i) has served as the center for socio-economic interaction in the municipality, (ii) is characterized by a cohesive core of commercial and mixed use buildings that may be interspersed with civic, religious, and residential buildings and public spaces, and (iii) is typically arranged along a main street and intersecting side streets and served by public infrastructure."

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.

On motion of Senator Obama, **House Bill No. 4818** was recalled from the order of third reading to the order of second reading.

Senator Obama offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4818 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Section 3-2.5 as follows:
(305 ILCS 5/3-2.5 new)

Sec. 3-2.5. Sheltered care rates. The Department of Human Services shall increase the sheltered care rates in effect on June 30, 2004, by 10%.

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.

On motion of Senator Harmon, **House Bill No. 5057** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 5057, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, line 12, by replacing "community reintegration program" with "program of transition services with follow-up"; and

on page 1, line 20, by replacing "cognitive and social" with "cognitive, social, and financial"; and

on page 1, line 22, by replacing "reintegration" with "transition"; and

on page 2, line 3, by replacing "Community reintegration" with "Transition services"; and

on page 2, line 6, by replacing "community reintegration" with "transition services"; and

on page 2, line 7, by replacing "reintegration" with "similar".

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.

On motion of Senator Haine, **House Bill No. 5094** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 5094, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 1, line 5, by changing "3.135" to "3.135, 3.160,"; and

on page 5, immediately below line 11, by inserting the following:

"(415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

Sec. 3.160. Construction or demolition debris.

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and piping or metals incidental to any of those materials.

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General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars or, except in Cook County, with metal bars that do not protrude more than 2 feet, bricks, rock, stone, reclaimed asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.

To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is (i) used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure, or (ii) separated or processed and returned to the economic mainstream in the form of raw materials or products, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) within 30 days of its generation, or (iii) solely broken concrete without protruding metal bars used for erosion control, or (iv) generated from the construction or demolition of a building, road, or other structure and used to construct, on the site where the construction or demolition has taken place, a manmade functional structure not to exceed 20 feet above the highest point of elevation of the property immediately adjacent to the new manmade functional structure as that elevation existed prior to the creation of that new structure, provided that the structure shall be covered with sufficient soil materials to sustain vegetation or by a road or structure, and further provided that no such structure shall be constructed within a home rule municipality with a population over 500,000 without the consent of the municipality.

(Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.); and

on page 24, immediately below line 4, by inserting the following:

"Section 99. Effective date. This Section and the provisions changing Section 3.160 of the Environmental Protection Act take effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

Floor Amendment No. 4 was held in the Committee on Rules.

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

On motion of Senator Radogno, **House Bill No. 5215** was recalled from the order of third reading to the order of second reading.

Senator Radogno offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 5215 on page 1, line 16, by replacing "3" with "2".

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.

On motion of Senator Cullerton, **House Bill No. 6567** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 6567 on page 1, by replacing lines 10 and 11 with the following:

"or destroyed roadway property. As used in this Section, "roadway property".

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.

At the hour of 4:58 o'clock p.m., Senator Halvorson presiding.

On motion of Senator Sieben, **House Bill No. 6583** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was tabled in the Committee on Revenue.

Senator Sieben offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 6583 by replacing everything after the enacting clause with the following:

"Section 5. The County Economic Development Project Area Property Tax Allocation Act is amended by changing Sections 4 and 5 as follows:

(55 ILCS 85/4) (from Ch. 34, par. 7004)

Sec. 4. Establishment of economic development project area; ordinance; joint review board; notice; hearing; changes in economic development plan; annual reporting requirements. Economic development project areas shall be established as follows:

(a) The corporate authorities of Whiteside County may by ordinance propose the establishment of an economic development project area and fix a time and place for a public hearing, and shall submit a certified copy of the ordinance as adopted to the Department.

(a-5) After the effective date of this amendatory Act of the 93rd General Assembly, the corporate authorities of Stephenson County may by ordinance propose the establishment of an economic development project area and fix a time and place for a public hearing, and shall submit a certified copy of the ordinance as adopted to the Department.

(b) Any county which adopts an ordinance which fixes a date, time and place for a public hearing shall convene a joint review board as hereinafter provided. Not less than 45 days prior to the date fixed for the public hearing, the county shall give notice by mailing to the chief executive officer of each affected taxing district having taxable property included in the proposed economic development project area and, if the ordinance is adopted by Stephenson County, the chief executive officer of any municipality within Stephenson County having a population of more than 20,000 that such chief executive officer or his designee is invited to participate in a joint review board. The designee shall serve at the discretion of the chief executive officer of the taxing district for a term not to exceed 2 years. Such notice shall advise each chief executive officer of the date, time and place of the first meeting of such joint review board, which shall occur not less than 30 days prior to the date of the public hearing. Such notice by mail shall be given by depositing such notice in the United States Postal Service by certified mail.

At or prior to the first meeting of such joint review board the county shall furnish to any member of such joint review board copies of the proposed economic development plan and any related documents which such member shall reasonably request. A majority of the members of such joint review board present at any meeting shall constitute a quorum. Additional meetings may be called by any member of a joint review board upon the giving of notice not less than 72 hours prior to the date of any additional meeting to all members of the joint review board. The joint review board shall review such information and material as its members reasonably deem relevant to the county's proposals to approve economic development plans and economic development projects and to designate economic development project areas. The county shall provide such information and material promptly upon the request of the joint review board and may also provide administrative support and facilities as the joint review board may reasonably require.

Within 30 days of its first meeting, a joint review board shall provide the county with a written report of its review of any proposal to approve an economic development plan and economic development project and to designate an economic development project area. Such written report shall include such information and advisory, nonbinding recommendations as a majority of the members of the joint review board shall deem relevant. Written reports of joint review boards may include information and advisory, nonbinding recommendations provided by a minority of the members thereof. Any joint review board which does not provide such written report within such 30-day period shall be deemed to have recommended that the county proceed with a proposal to approve an economic development plan and

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economic development project and to designate an economic development project area.

(c) Notice of the public hearing shall be given by publication and mailing.

(1) Notice by publication shall be given by publication at least twice, the first publication to be not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the taxing districts having property in the proposed economic development project area. Notice by mailing shall be given by depositing such notice together with a copy of the proposed economic development plan in the United States Postal Service by certified mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the proposed economic development project area. The notice shall be mailed not less than 10 days prior to the dates set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall also be sent to the persons last listed on the tax rolls within the preceding 3 years as the owners of the property.

(2) The notices issued pursuant to this Section shall include the following:

(A) The time and place of public hearing;

(B) The boundaries of the proposed economic development project area by legal description and by street location where possible;

(C) A notification that all interested persons will be given an opportunity to be heard at the public hearing;

(D) An invitation for any person to submit alternative proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land within the proposed economic development project area;

(E) A description of the economic development plan or economic development project if a plan or project is a subject matter of the hearing; and

(F) Such other matters as the county may deem appropriate.

(3) Not less than 45 days prior to the date set for hearing, the county shall give notice by mail as provided in this subsection (c) to all taxing districts of which taxable property is included in the economic development project area, and to the Department. In addition to the other requirements under this subsection (c), the notice shall include an invitation to the Department and each taxing district to submit comments to the county concerning the subject matter of the hearing prior to the date of the hearing.

(d) At the public hearing any interested person, the Department or any affected taxing district may file written objections with the county clerk and may be heard orally with respect to any issues embodied in the notice. The county shall hear and determine all alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land and all protests and objections at the hearing, and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the adjourned hearing. Public hearings with regard to an economic development plan, economic development project area, or economic development project may be held simultaneously.

(e) At the public hearing, or at any time prior to the adoption by the county of an ordinance approving an economic development plan, the county may make changes in the economic development plan. Changes which (1) alter the exterior boundaries of the proposed economic development project area, (2) substantially affect the general land uses established in the proposed economic development plan, (3) substantially change the nature of the proposed economic development plan, (4) change the general description of any proposed developer, user or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area shall be made only after review by joint review board, notice and hearing pursuant to the procedures set forth in this Section. Changes which do not (1) alter the exterior boundaries of a proposed economic development project area, (2) substantially affect the general land uses established in the proposed plan, (3) substantially change the nature of the proposed economic development plan, (4) change the general description of any proposed developer, user or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area may be made without further notice or hearing, provided that the county shall give notice of its changes by mail to the Department and to each affected taxing district and by publication in a newspaper or newspapers of general circulation with the affected taxing districts. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(f) At any time within 90 days of the final adjournment of the public hearing, a county may, by

ordinance, approve the economic development plan, establish the economic development project area, and authorize property tax allocation financing for such economic development project area.

Any ordinance adopted by Whiteside County which approves the economic development plan shall contain findings that the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs, that private investment in an amount not less than \$25,000,000 is reasonably expected to occur in the economic development project area, that the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income, and that the economic development project will increase or maintain the property, sales and income tax bases of the county and of the State.

Any ordinance adopted by Stephenson County that approves an economic development plan shall contain findings that (i) the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs; (ii) private investment in an amount not less than \$10,000,000 is reasonably expected to occur in the economic development area; (iii) the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income; and (iv) the economic development project will increase or maintain the property, sales, and income tax bases of the county and of the State. Before the economic development project area is established by Stephenson County, the following additional conditions must be included in an intergovernmental agreement approved by both the Stephenson County Board and the corporate authorities of the City of Freeport: (i) the corporate authorities of the City of Freeport must concur by resolution with the findings of Stephenson County; (ii) both the corporate authorities of the City of Freeport and the Stephenson County Board shall approve any and all economic or redevelopment agreements and incentives for any economic development project within the economic development area; (iii) any economic development project that receives funds under this Act, except for any economic development project specifically excluded from annexation in the provisions of the intergovernmental agreement, shall agree to and must enter into an annexation agreement with the City of Freeport to annex property included in the economic development project area to the City of Freeport at the first point in time that the property becomes contiguous to the City of Freeport; (iv) the local share of all State occupation and use taxes allocable to the City of Freeport and Stephenson County and derived from commercial projects within the economic development project area shall be equally shared by and between the City of Freeport and Stephenson County for the duration of the economic development project; and (v) any development in the economic development project area shall be built in accordance with the building and related codes of both the City of Freeport and Stephenson County and the City of Freeport shall approve all provisions for water and sewer service.

The ordinance shall also state that the economic development project area shall not include parcels to be used for purposes of residential development. Any ordinance adopted which establishes an economic development project area shall contain the boundaries of such area by legal description and, where possible, by street location. Any ordinance adopted which authorizes property tax allocation financing shall provide that the ad valorem taxes, if any, arising from the levies upon taxable real property in such economic development project area by taxing districts and tax rates determined in the manner provided in subsection (b) of Section 6 of this Act each year after the effective date of the ordinance until economic development project costs and all county obligations financing economic development project costs incurred under this Act have been paid shall be divided as follows:

(1) That portion of taxes levied upon each taxable lot, block, tract or parcel of real property which is attributable to the lower of the current equalized assessed value or the initial equalized assessed value of each such taxable lot, block, tract or parcel of real property in the economic development project area shall be allocated to, and when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of property tax allocation financing.

(2) That portion, if any, of such taxes which is attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the economic development project area over and above the initial equalized assessed value of each property in the economic development project area shall be allocated to and when collected shall be paid to the county treasurer who shall deposit those taxes into a special fund called the special tax allocation fund of the county for the purpose of paying economic development project costs and obligations incurred in the payment thereof.

(g) After a county has by ordinance approved an economic development plan and established an economic development project area, the plan may be amended and the boundaries of the area may be

altered only as herein provided. Amendments which (1) alter the exterior boundaries of an economic development project area, (2) substantially affect the general land uses established pursuant to the economic development plan, (3) substantially change the nature of the economic development plan, (4) change the general description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved shall be made only after review by a joint review board, notice and hearing pursuant to the procedures set forth in this Section. Amendments which do not (1) alter the exterior boundaries of an economic development project area, (2) substantially affect the general land uses established in the economic development plan, (3) substantially change the nature of the economic development plan, (4) change the description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area may be made without further hearing or notice, provided that the county shall give notice of any amendment by mail to the Department and to each taxing district and by publication in a newspaper or newspapers of general circulation within the affected taxing districts. Such notices by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such amendments.

(h) After the adoption of an ordinance adopting property tax allocation financing for an economic development project area, the county shall annually report to each taxing district having taxable property within such economic development project area (i) any increase or decrease in the equalized assessed value of the real property located within such economic development project area above or below the initial equalized assessed value of such real property, (ii) that portion, if any, of the ad valorem taxes arising from the levies upon taxable real property in such economic development project area by the taxing districts which is attributable to the increase in the current equalized assessed valuation of each lot, block, tract or parcel of real property in the economic development project area over and above the initial equalized value of each property and which has been allocated to the county in the current year, and (iii) such other information as the county may deem relevant.

(i) The county shall give notice by mail as provided in this Section and shall reconvene the joint review board not less than annually for each of the 2 years following its adoption of an ordinance adopting property tax allocation financing for an economic development project area and not less than once in each 3-year period thereafter. The county shall provide such information, and may provide administrative support and facilities as the joint review board may reasonably require for each of such meetings.

(Source: P.A. 92-791, eff. 8-6-02.)

(55 ILCS 85/5) (from Ch. 34, par. 7005)

Sec. 5. Submission to Department; certification by Department.

(a) The county shall submit certified copies of any ordinances adopted approving a proposed economic development plan, establishing an economic development project area, and authorizing tax increment allocation financing to the Department, together with (1) a map of the economic development project area, (2) a copy of the economic development plan as approved, (3) an analysis, and any supporting documents and statistics, demonstrating (i) that the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs and (ii) that private investment in the amount of not less than \$25,000,000 for all ordinances adopted by Whiteside County and in the amount of not less than \$10,000,000 for any ordinance adopted by Stephenson County is reasonably expected to occur in the economic development project area, (4) an estimate of the economic impact of the economic development plan and the use of property tax allocation financing upon the revenues of the county and the affected taxing districts, (5) a record of all public hearings held in connection with the establishment of the economic development project area, and (6) such other information as the Department by regulation may require.

(b) Upon receipt of an application from a county the Department shall review the application to determine whether the economic development project area qualifies as an economic development project area under this Act. At its discretion, the Department may accept or reject the application or may request such additional information as it deems necessary or advisable to aid its review. If any such area is found to be qualified to be an economic development project area, the Department shall approve and certify such economic development project area and shall provide written notice of its approval and certification to the county and to the county clerk. In determining whether an economic development project area shall be approved and certified, the Department shall consider (1) whether, without public intervention, the State would suffer substantial economic dislocation, such as relocation of a commercial business or

industrial or manufacturing facility to another state, territory or country, or would not otherwise benefit from private investment offering substantial employment opportunities and economic growth, and (2) the impact on the revenues of the county and the affected taxing districts of the use of tax increment allocation financing in connection with the economic development project.

(c) On or before July 1, ~~2007~~ ~~2006~~, the Department shall submit to the General Assembly a report detailing the number of economic development project areas it has approved and certified, the number and type of jobs created or retained therein, the aggregate amount of private investment therein, the impact in the revenues of counties and affected taxing districts of the use of property tax allocation financing therein, and such additional information as the Department may determine to be relevant. On July 1, 2008 the authority granted hereunder to counties to establish economic development project areas and to adopt property tax allocation financing in connection therewith and to the Department to approve and certify economic development project areas shall expire unless the General Assembly shall have authorized counties and the Department to continue to exercise the powers granted to them under this Act.

(Source: P.A. 92-791, eff. 8-6-02.)

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.

On motion of Senator Welch, **House Bill No. 770** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 770 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 18-12 as follows:

(105 ILCS 5/18-12) (from Ch. 122, par. 18-12)

Sec. 18-12. Dates for filing State aid claims. The school board of each school district shall require teachers, principals, or superintendents to furnish from records kept by them such data as it needs in preparing and certifying to the regional superintendent its school district report of claims provided in Sections 18-8.05 through 18-10 as required by the State Superintendent of Education. The district claim shall be based on the latest available equalized assessed valuation and tax rates, as provided in Section 18-8.05 and shall use the average daily attendance as determined by the method outlined in Section 18-8.05 and shall be certified and filed with the regional superintendent by June 21 for districts with an official school calendar end date before June 15 or within 2 weeks following the official school calendar end date for districts with a school year end date of June 15 or later. The regional superintendent shall certify and file with the State Superintendent of Education district State aid claims by July 1 for districts with an official school calendar end date before June 15 or no later than July 15 for districts with an official school calendar end date of June 15 or later. Failure to so file by these deadlines constitutes a forfeiture of the right to receive payment by the State until such claim is filed and vouchered for payment. The regional superintendent of schools shall certify the county report of claims by July 15; and the State Superintendent of Education shall voucher for payment those claims to the State Comptroller as provided in Section 18-11.

Except as otherwise provided in this Section, if any school district fails to provide the minimum school term specified in Section 10-19, the State aid claim for that year shall be reduced by the State Superintendent of Education in an amount equivalent to .56818% for each day less than the number of days required by this Code.

If the State Superintendent of Education determines that the failure to provide the minimum school term was occasioned by an act or acts of God, or was occasioned by conditions beyond the control of the school district which posed a hazardous threat to the health and safety of pupils, the State aid claim need not be reduced.

If the State Superintendent of Education determines that the failure to provide the minimum school term was due to a school being closed on or after September 11, 2001 for more than one-half day of attendance due to a bioterrorism or terrorism threat that was investigated by a law enforcement agency,

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the State aid claim shall not be reduced.

If, during any school day, (i) a school district has provided at least one clock hour of instruction but must close the schools due to adverse weather conditions or due to a condition beyond the control of the school district that poses a hazardous threat to the health and safety of pupils prior to providing the minimum hours of instruction required for a full day of attendance, or (ii) the school district must delay the start of the school day due to adverse weather conditions and this delay prevents the district from providing the minimum hours of instruction required for a full day of attendance, the partial day of attendance may be counted as a full day of attendance. The partial day of attendance and the reasons therefor shall be certified in writing within a month of the closing or delayed start by the local school district superintendent to the Regional Superintendent of Schools for forwarding to the State Superintendent of Education for approval.

If a school building is ordered to be closed by the school board, in consultation with a local emergency response agency, due to a condition that poses a hazardous threat to the health and safety of pupils, then the school district shall have a grace period of 4 days in which the general State aid claim shall not be reduced so that alternative housing of the pupils may be located.

Beginning with the 2003-2004 school year, if the failure of a school district to provide the minimum school term was occasioned by an act or acts of God or by conditions beyond the control of the school district that posed a hazardous threat to the health and safety of pupils, either of which must have occurred after April 1 of the school year, then the school district shall have a grace period of up to 5 days, to assess the need to relocate pupils, in which the general State aid claim shall not be reduced.

No exception to the requirement of providing a minimum school term may be approved by the State Superintendent of Education pursuant to this Section unless a school district has first used all emergency days provided for in its regular calendar.

If the State Superintendent of Education declares that an energy shortage exists during any part of the school year for the State or a designated portion of the State, a district may operate the school attendance centers within the district 4 days of the week during the time of the shortage by extending each existing school day by one clock hour of school work, and the State aid claim shall not be reduced, nor shall the employees of that district suffer any reduction in salary or benefits as a result thereof. A district may operate all attendance centers on this revised schedule, or may apply the schedule to selected attendance centers, taking into consideration such factors as pupil transportation schedules and patterns and sources of energy for individual attendance centers.

No State aid claim may be filed for any district unless the district superintendent executes and files with the State Superintendent of Education, in the method prescribed by the Superintendent, certification that the district has complied with the requirements of Section 10-22.5 in regard to the nonsegregation of pupils on account of color, creed, race, sex or nationality.

No State aid claim may be filed for any district unless the district superintendent executes and files with the State Superintendent of Education, in the method prescribed by the Superintendent, a sworn statement that to the best of his or her knowledge or belief the employing or assigning personnel have complied with Section 24-4 in all respects.

Electronically submitted State aid claims shall be submitted by duly authorized district or regional individuals over a secure network that is password protected. The electronic submission of a State aid claim must be accompanied with an affirmation that all of the provisions of Sections 18-8.05 through 18-10, 10-22.5, and 24-4 of this Code are met in all respects.

(Source: P.A. 92-661, eff. 7-16-02; 93-54, eff. 7-1-03.)

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.

On motion of Senator Welch, **House Bill No. 1020** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1020 by replacing everything after the enacting clause with the following:

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"Section 5. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 601 as follows:

(750 ILCS 5/601) (from Ch. 40, par. 601)

Sec. 601. Jurisdiction; Commencement of Proceeding.

(a) A court of this State competent to decide child custody matters has jurisdiction to make a child custody determination in original or modification proceedings as provided in Section 201 of the Uniform Child-Custody Jurisdiction and Enforcement Act as adopted by this State.

(b) A child custody proceeding is commenced in the court:

(1) by a parent, by filing a petition:

(i) for dissolution of marriage or legal separation or declaration of invalidity of marriage; or

(ii) for custody of the child, in the county in which he is permanently resident or found;

(2) by a person other than a parent, by filing a petition for custody of the child in the county in which he is permanently resident or found, but only if he is not in the physical custody of one of his parents; or

(3) by a stepparent, by filing a petition, if all of the following circumstances are met:

(A) the child is at least 12 years old;

(B) the custodial parent and stepparent were married for at least 5 years during which the child resided with the parent and stepparent;

(C) the custodial parent is deceased or is disabled and cannot perform the duties of a parent to the child;

(D) the stepparent provided for the care, control, and welfare to the child prior to the initiation of custody proceedings;

(E) the child wishes to live with the stepparent; and

(F) it is alleged to be in the best interests and welfare of the child to live with the stepparent as provided in Section 602 of this Act.

(4) When one of the parents is deceased, by a grandparent who is a parent or stepparent of a deceased parent, if one or more of the following existed at the time of the parent's death:

(A) the parents were not cohabiting on a permanent or indefinite basis;

(B) the surviving parent had been absent from the marital abode for more than one month without the deceased spouse knowing his or her whereabouts;

(C) the surviving parent was in State or federal custody; or

(D) the surviving parent had: (i) received supervision for or been convicted of any violation of Article 12 of the Criminal Code of 1961 directed towards the deceased parent or the child; or (ii) received supervision or been convicted of violating an order of protection entered under Section 217, 218, or 219 of the Illinois Domestic Violence Act of 1986 for the protection of the deceased parent or the child.

(c) Notice of a child custody proceeding, including an action for modification of a previous custody order, shall be given to the child's parents, guardian and custodian, who may appear, be heard, and file a responsive pleading. The court, upon showing of good cause, may permit intervention of other interested parties.

(d) Proceedings for modification of a previous custody order commenced more than 30 days following the entry of a previous custody order must be initiated by serving a written notice and a copy of the petition for modification upon the child's parent, guardian and custodian at least 30 days prior to hearing on the petition. Nothing in this Section shall preclude a party in custody modification proceedings from moving for a temporary order under Section 603 of this Act.

(e) (Blank).

(f) The court shall, at the court's discretion or upon the request of any party entitled to petition for custody of the child, appoint a guardian ad litem to represent the best interest of the child for the duration of the custody proceeding or for any modifications of any custody orders entered. Nothing in this Section shall be construed to prevent the court from appointing the same guardian ad litem for 2 or more children that are siblings or half-siblings.

(Source: P.A. 93-108, eff. 1-1-04)."

The motion prevailed.

And the amendment was adopted and ordered printed.

[May 12, 2004]

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

On motion of Senator Trotter, **House Bill No. 679** was recalled from the order of third reading to the order of second reading.

Senator Trotter offered the following amendment:

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend House Bill 679 by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by changing Section 40 as follows:

(215 ILCS 106/40)

Sec. 40. Waivers.

(a) The Department shall request any necessary waivers of federal requirements in order to allow receipt of federal funding for:

(1) the coverage of families with eligible children under this Act; and

(2) for the coverage of children who would otherwise be eligible under this Act, but who have health insurance.

(b) The failure of the responsible federal agency to approve a waiver for children who would otherwise be eligible under this Act but who have health insurance shall not prevent the implementation of any Section of this Act provided that there are sufficient appropriated funds.

(c) Eligibility of a person under an approved waiver due to the relationship with a child pursuant to Article V of the Illinois Public Aid Code or this Act shall be limited to such a person whose countable income is determined by the Department to be at or below such income eligibility standard as the Department by rule shall establish. The income level established by the Department shall not be below 90% of the federal poverty level. Such persons who are determined to be eligible must reapply, or otherwise establish eligibility, at least annually. An eligible person shall be required, as determined by the Department by rule, to report promptly those changes in income and other circumstances that affect eligibility. The eligibility of a person may be redetermined based on the information reported or may be terminated based on the failure to report or failure to report accurately. A person may also be held liable to the Department for any payments made by the Department on such person's behalf that were inappropriate. An applicant shall be provided with notice of these obligations.

(d) Subject to specific appropriation, the Department shall provide outreach grants to community organizations to enroll families in the program under this Section.

(Source: P.A. 92-597, eff. 6-28-02; 93-63, eff. 6-30-03.)

Section 99. Effective date. This Act takes effect July 1, 2004."

Senator Trotter moved that the foregoing amendment be ordered to lie on the table.

The motion to table prevailed.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2 . Amend House Bill 0679 by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by changing Section 22 as follows:

(215 ILCS 106/22)

Sec. 22. Enrollment in program; funding for community organizations.

(a) The Department shall develop procedures to allow community providers, schools, youth service agencies, employers, labor unions, local chambers of commerce, and religious organizations to assist in enrolling children in the Program.

(b) Subject to specific appropriation, the Department shall provide funding to community organizations for outreach activities, which could include assistance in completing the application process and forwarding the application to the State for processing. Community organizations will be required to provide specific services and will be held accountable for providing those services. If a community organization does not provide those services, the organization will be required to return

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funds to the Department.

(Source: P.A. 91-470, eff. 8-10-99; 91-471, eff. 8-10-99; 92-16, eff. 6-28-01.)

Section 99. Effective date. This Act takes effect July 1, 2004."

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.

LEGISLATIVE MEASURES FILED

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

Senate Amendment No. 2 to House Bill 622
 Senate Amendment No. 3 to House Bill 1080
 Senate Amendment No. 1 to House Bill 1300
 Senate Amendment No. 1 to House Bill 4086

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 12, 2004 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

Environment and Energy: **Senate Amendment No. 2 to House Bill 422.**

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **House Bills Numbered 762, 766 and 1300** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **House Bills Numbered 762, 766 and 1300** were returned to the order of third reading.

Senator Viverito, Chairperson of the Committee on Rules, reported that the following Legislative Measures have been approved for consideration:

Senate Amendment No. 2 to House Bill 956
Senate Amendment No. 2 to House Bill 4450

The foregoing floor amendments were placed on the Secretary's Desk.

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. 2145

A bill for AN ACT concerning environmental protection.

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. 2145

Passed the House, as amended, May 12, 2004.

MARK MAHONEY, Clerk of the House

[May 12, 2004]

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 2145 on page 3, by replacing lines 5 through 13 with the following:

"(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."

Under the rules, the foregoing **Senate Bill No. 2145**, 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. 2158

A bill for AN ACT concerning taxes.

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. 2158

Passed the House, as amended, May 12, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 2158 as follows:

on page 1, by replacing line 5 with the following:

"changing Sections 11-74.4-3 and 11-74.4-4 as follows:"; and

on page 42, immediately below line 1, by inserting the following:

"(65 ILCS 5/11-74.4-4) (from Ch. 24, par. 11-74.4-4)

Sec. 11-74.4-4. Municipal powers and duties; redevelopment project areas. A municipality may:

(a) The changes made by this amendatory Act of the 91st General Assembly do not apply to a municipality that, (i) before the effective date of this amendatory Act of the 91st General Assembly, has adopted an ordinance or resolution fixing a time and place for a public hearing under Section 11-74.4-5 or (ii) before July 1, 1999, has adopted an ordinance or resolution providing for a feasibility study under Section 11-74.4-4.1, but has not yet adopted an ordinance approving redevelopment plans and redevelopment projects or designating redevelopment project areas under this Section, until after that municipality adopts an ordinance approving redevelopment plans and redevelopment projects or designating redevelopment project areas under this Section; thereafter the changes made by this amendatory Act of the 91st General Assembly apply to the same extent that they apply to redevelopment plans and redevelopment projects that were approved and redevelopment projects that were designated before the effective date of this amendatory Act of the 91st General Assembly.

By ordinance introduced in the governing body of the municipality within 14 to 90 days from the completion of the hearing specified in Section 11-74.4-5 approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to notice and hearing required by this Act. No redevelopment project area shall be designated unless a plan and project are approved prior to the designation of such area and such area shall include only those contiguous parcels of real property and improvements thereon substantially benefited by the proposed redevelopment project improvements. Upon adoption of the ordinances, the municipality shall forthwith transmit to the county clerk of the county or counties within which the redevelopment project area is located a certified copy of the ordinances, a legal description of the redevelopment project area, a map of the redevelopment project area, identification of the year that the county clerk shall use for determining the total initial equalized assessed value of the redevelopment project area consistent with subsection (a) of Section 11-74.4-9, and a list of the parcel or tax identification number of each parcel of property included in the redevelopment project area.

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(b) Make and enter into all contracts with property owners, developers, tenants, overlapping taxing bodies, and others necessary or incidental to the implementation and furtherance of its redevelopment plan and project. ~~Contract provisions concerning loan repayment obligations in contracts~~ ~~Contracts~~ entered into on or after the effective date of this amendatory Act of the 93rd General Assembly shall terminate no later than the last to occur of the estimated dates of completion of the redevelopment project and retirement of the obligations issued to finance redevelopment project costs as required by item (3) of subsection (n) of Section 11-74.4-3. Payments received under contracts entered into by the municipality prior to the effective date of this amendatory Act of the 93rd General Assembly that are received after the redevelopment project area has been terminated by municipal ordinance shall be deposited into a special fund of the municipality to be used for other community redevelopment needs within the redevelopment project area.

(c) Within a redevelopment project area, acquire by purchase, donation, lease or eminent domain; own, convey, lease, mortgage or dispose of land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality determines is reasonably necessary to achieve the objectives of the redevelopment plan and project. No conveyance, lease, mortgage, disposition of land or other property owned by a municipality, or agreement relating to the development of such municipal property shall be made except upon the adoption of an ordinance by the corporate authorities of the municipality. Furthermore, no conveyance, lease, mortgage, or other disposition of land owned by a municipality or agreement relating to the development of such municipal property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. The procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids.

(d) Within a redevelopment project area, clear any area by demolition or removal of any existing buildings and structures.

(e) Within a redevelopment project area, renovate or rehabilitate or construct any structure or building, as permitted under this Act.

(f) Install, repair, construct, reconstruct or relocate streets, utilities and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan.

(g) Within a redevelopment project area, fix, charge and collect fees, rents and charges for the use of any building or property owned or leased by it or any part thereof, or facility therein.

(h) Accept grants, guarantees and donations of property, labor, or other things of value from a public or private source for use within a project redevelopment area.

(i) Acquire and construct public facilities within a redevelopment project area, as permitted under this Act.

(j) Incur project redevelopment costs and reimburse developers who incur redevelopment project costs authorized by a redevelopment agreement; provided, however, that on and after the effective date of this amendatory Act of the 91st General Assembly, no municipality shall incur redevelopment project costs (except for planning costs and any other eligible costs authorized by municipal ordinance or resolution that are subsequently included in the redevelopment plan for the area and are incurred by the municipality after the ordinance or resolution is adopted) that are not consistent with the program for accomplishing the objectives of the redevelopment plan as included in that plan and approved by the municipality until the municipality has amended the redevelopment plan as provided elsewhere in this Act.

(k) Create a commission of not less than 5 or more than 15 persons to be appointed by the mayor or president of the municipality with the consent of the majority of the governing board of the municipality. Members of a commission appointed after the effective date of this amendatory Act of 1987 shall be appointed for initial terms of 1, 2, 3, 4 and 5 years, respectively, in such numbers as to provide that the terms of not more than 1/3 of all such members shall expire in any one year. Their successors shall be appointed for a term of 5 years. The commission, subject to approval of the corporate authorities may exercise the powers enumerated in this Section. The commission shall also have the power to hold the public hearings required by this division and make recommendations to the corporate authorities concerning the adoption of redevelopment plans, redevelopment projects and designation of redevelopment project areas.

(l) Make payment in lieu of taxes or a portion thereof to taxing districts. If payments in lieu of taxes or a portion thereof are made to taxing districts, those payments shall be made to all districts within a project redevelopment area on a basis which is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment project area.

(m) Exercise any and all other powers necessary to effectuate the purposes of this Act.

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(n) If any member of the corporate authority, a member of a commission established pursuant to Section 11-74.4-4(k) of this Act, or an employee or consultant of the municipality involved in the planning and preparation of a redevelopment plan, or project for a redevelopment project area or proposed redevelopment project area, as defined in Sections 11-74.4-3(i) through (k) of this Act, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates and terms and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the corporate authorities and entered upon the minute books of the corporate authorities. If an individual holds such an interest then that individual shall refrain from any further official involvement in regard to such redevelopment plan, project or area, from voting on any matter pertaining to such redevelopment plan, project or area, or communicating with other members concerning corporate authorities, commission or employees concerning any matter pertaining to said redevelopment plan, project or area. Furthermore, no such member or employee shall acquire of any interest direct, or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan, project or area or (b) first public notice of such plan, project or area pursuant to Section 11-74.4-6 of this Division, whichever occurs first. For the purposes of this subsection, a property interest acquired in a single parcel of property by a member of the corporate authority, which property is used exclusively as the member's primary residence, shall not be deemed to constitute an interest in any property included in a redevelopment area or proposed redevelopment area that was established before December 31, 1989, but the member must disclose the acquisition to the municipal clerk under the provisions of this subsection. For the purposes of this subsection, a month-to-month leasehold interest in a single parcel of property by a member of the corporate authority shall not be deemed to constitute an interest in any property included in any redevelopment area or proposed redevelopment area, but the member must disclose the interest to the municipal clerk under the provisions of this subsection.

(o) Create a Tax Increment Economic Development Advisory Committee to be appointed by the Mayor or President of the municipality with the consent of the majority of the governing board of the municipality, the members of which Committee shall be appointed for initial terms of 1, 2, 3, 4 and 5 years respectively, in such numbers as to provide that the terms of not more than 1/3 of all such members shall expire in any one year. Their successors shall be appointed for a term of 5 years. The Committee shall have none of the powers enumerated in this Section. The Committee shall serve in an advisory capacity only. The Committee may advise the governing Board of the municipality and other municipal officials regarding development issues and opportunities within the redevelopment project area or the area within the State Sales Tax Boundary. The Committee may also promote and publicize development opportunities in the redevelopment project area or the area within the State Sales Tax Boundary.

(p) Municipalities may jointly undertake and perform redevelopment plans and projects and utilize the provisions of the Act wherever they have contiguous redevelopment project areas or they determine to adopt tax increment financing with respect to a redevelopment project area which includes contiguous real property within the boundaries of the municipalities, and in doing so, they may, by agreement between municipalities, issue obligations, separately or jointly, and expend revenues received under the Act for eligible expenses anywhere within contiguous redevelopment project areas or as otherwise permitted in the Act.

(q) Utilize revenues, other than State sales tax increment revenues, received under this Act from one redevelopment project area for eligible costs in another redevelopment project area that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area from which the revenues are received. Utilize tax increment revenues for eligible costs that are received from a redevelopment project area created under the Industrial Jobs Recovery Law that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area created under this Act which initially receives these revenues. Utilize revenues, other than State sales tax increment revenues, by transferring or loaning such revenues to a redevelopment project area created under the Industrial Jobs Recovery Law that is either contiguous to, or separated only by a public right of way from the redevelopment project area that initially produced and received those revenues; and, if the redevelopment project area (i) was established before the effective date of this amendatory Act of the 91st General Assembly and (ii) is located within a municipality with a population of more than 100,000, utilize revenues or proceeds of obligations authorized by Section 11-74.4-7 of this Act, other than use or occupation tax revenues, to pay for any redevelopment project costs as defined by subsection (q) of Section 11-74.4-3 to the extent that the redevelopment project costs involve public property that is either contiguous to, or separated only by a public right of way from, a redevelopment project area whether or not redevelopment project costs or the source of payment for the costs are specifically set forth in the

redevelopment plan for the redevelopment project area.

(r) If no redevelopment project has been initiated in a redevelopment project area within 7 years after the area was designated by ordinance under subsection (a), the municipality shall adopt an ordinance repealing the area's designation as a redevelopment project area; provided, however, that if an area received its designation more than 3 years before the effective date of this amendatory Act of 1994 and no redevelopment project has been initiated within 4 years after the effective date of this amendatory Act of 1994, the municipality shall adopt an ordinance repealing its designation as a redevelopment project area. Initiation of a redevelopment project shall be evidenced by either a signed redevelopment agreement or expenditures on eligible redevelopment project costs associated with a redevelopment project.

(Source: P.A. 92-16, eff. 6-28-01; 93-298, eff. 7-23-03.)"

Under the rules, the foregoing **Senate Bill No. 2158**, 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. 2495

A bill for AN ACT concerning orders of protection.

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. 2495

Passed the House, as amended, May 12, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend Senate Bill 2495 on page 3, line 11, by replacing "(18 U.S.C. 922(g)98)." with "(18 U.S.C. 922(g)(8) and (9))."

on page 5, line 18, by replacing "(18 U.S.C. 922(g)(8)(9)." with "(18 U.S.C. 922(g)(8) and (9))."

Under the rules, the foregoing **Senate Bill No. 2495**, 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. 2654

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. 2654

Passed the House, as amended, May 12, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. 1 . Amend Senate Bill 2654 on page 1, line 5, by replacing "5-6-4, and 5-8-4" with "and 5-6-4"; and

by deleting lines 24 through 35 on page 24 and all of pages 25, 26, 27, and 28.

Under the rules, the foregoing **Senate Bill No. 2654**, with House Amendment No. 1 was referred to the Secretary's Desk.

[May 12, 2004]

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 bills of the following titles, to-wit:

SENATE BILL NO. 2106

A bill for AN ACT in relation to the transfer of real property.

SENATE BILL NO. 2122

A bill for AN ACT concerning vehicles.

SENATE BILL NO. 2140

A bill for AN ACT concerning property taxes.

SENATE BILL NO. 2196

A bill for AN ACT concerning stormwater management.

SENATE BILL NO. 2201

A bill for AN ACT concerning forensic laboratory oversight.

SENATE BILL NO. 2272

A bill for AN ACT concerning recreational trails.

SENATE BILL NO. 3166

A bill for AN ACT concerning sexually violent persons.

SENATE BILL NO. 3174

A bill for AN ACT concerning civil liabilities.

SENATE BILL NO. 3184

A bill for AN ACT concerning vehicles.

Passed the House, May 12, 2004.

MARK MAHONEY, Clerk of 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 bills of the following titles, to-wit:

SENATE BILL NO. 2337

A bill for AN ACT concerning cable television.

SENATE BILL NO. 2360

A bill for AN ACT concerning schools.

SENATE BILL NO. 2362

A bill for AN ACT concerning education.

SENATE BILL NO. 2370

A bill for AN ACT concerning taxation.

SENATE BILL NO. 2386

A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2448

A bill for AN ACT concerning children and families.

SENATE BILL NO. 2988

A bill for AN ACT in relation to property.

Passed the House, May 12, 2004.

MARK MAHONEY, Clerk of the House

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 534

Offered by Senator Demuzio, E. Jones and all Senators:

Mourns the death of Howard L. Sims of Pana.

SENATE RESOLUTION 535

Offered by Senator Demuzio, E. Jones and all Senators:

Mourns the death of C.F. Bertinetti of Taylorville

[May 12, 2004]

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

At the hour of 5:05 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, May 13, 2004, at 11:00 o'clock a.m.