SENATE JOURNAL

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NINETY-FOURTH GENERAL ASSEMBLY

83RD LEGISLATIVE DAY

THURSDAY, MARCH 2, 2006

9:03 O'CLOCK A.M.

NO. 83
[March 2, 2006]

SENATE
Daily Journal Index
83rd Legislative Day

The Senate met pursuant to adjournment.
Senator James A. DeLeo, Chicago, Illinois, presiding.
Prayer by Dr. Richard Ahlgrim, Berean Baptist Church, Springfield, Illinois.
Senator Maloney led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, March 1, 2006, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

2005 Annual Report of the Auditor General's Office, submitted by the Office of the Auditor General.

2005 Annual Report, submitted by the Illinois Sports Facilities Authority.

Fiscal Year 2005 Adult Education and Family Literacy Annual Report, submitted by the Illinois Community College Board.

FY 06 plan to establish and maintain an affirmative action program, submitted by the Department of Commerce and Economic Opportunity.

Business Enterprise Program, Fiscal Year 2005 Annual Report, submitted by the Department of Central Management Services.

Annual AgriFIRST Report, submitted by the Department of Agriculture.

Annual Report on School Breakfast Incentives, submitted by the Illinois State Board of Education.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to Senate Bill 789
Senate Floor Amendment No. 3 to Senate Bill 1835
Senate Floor Amendment No. 2 to Senate Bill 2654

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. 1 to House Bill 4222

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, reported that the following Legislative Measures have been approved for consideration:

Senate Floor Amendment No. 2 to Senate Bill 702
Senate Floor Amendment No. 3 to Senate Bill 2180

Senate Floor Amendment No. 3 to Senate Bill 2796
Senate Floor Amendment No. 2 to Senate Bill 2884

The foregoing floor amendments were placed on the Secretary's Desk.

REPORTS FROM STANDING COMMITTEES

Senator Forby, Chairperson of the Committee on Labor, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 827
Senate Amendment No. 3 to Senate Bill 2339

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

Senator Demuzio, Chairperson of the Committee on Licensed Activities, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to Senate Bill 2469
Senate Amendment No. 1 to Senate Bill 2745

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

Senator Maloney, Chairperson of the Committee on Higher Education, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 880
Senate Amendment No. 1 to Senate Bill 2225
Senate Amendment No. 1 to Senate Bill 2376

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

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 passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 874
A bill for AN ACT concerning local government.

HOUSE BILL NO. 4363
A bill for AN ACT concerning State government.

HOUSE BILL NO. 5462
A bill for AN ACT concerning criminal law.

Passed the House, March 1, 2006.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 874, 4363 and 5462** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 85

WHEREAS, In 1956, a 2.5 square mile area of land in unincorporated Cook County was unwanted by neighboring communities; and

WHEREAS, Eighty-five pioneering residents living in this unincorporated area of Cook County were searching for municipal services, schools, and a good place to live the American dream; they refused to be beaten by others and decided to incorporate and become the Village of Rosemont in 1956; and

WHEREAS, Mayor Donald E. Stephens became the first elected (and only) mayor of the Village of Rosemont; and

WHEREAS, This new Village of Rosemont was adjacent to what would become, in the next 20 years, the world's busiest airport, O'Hare International Airport; and

WHEREAS, The residents had the vision and foresight to transform the Village of Rosemont into a center of commerce by building hospitality and entertainment facilities to support the international and domestic air travelers using the world's busiest airport; and

WHEREAS, Today, Rosemont's 4,224 residents and some 12,000 hospitality employees work together to serve meeting, convention, tradeshow, business, and entertainment customers from around the world; and

WHEREAS, Rosemont hosts an average of 50,000 visitors daily and owns and operates some of Chicagoland's finest meeting, entertainment, special event, and tradeshow facilities, including the Donald E. Stephens Convention and Conference Center, which is a top 10 meeting/convention/trade show venue, the Allstate Arena, and the Rosemont Theatre; and

WHEREAS, The Donald E. Stephens Convention and Conference Center is a 1,000,000 square foot convention center and may be the only one in the nation that returns revenue without any subsidies or room taxes; it hosts approximately 100 trade conventions and public shows a year and welcomes more than 1,000,000 delegates and attendees to public and private shows annually; and

WHEREAS, The Allstate Arena, formerly known as the Rosemont Horizon, has been recognized by PERFORMANCE MAGAZINE as both "Top Grossing Arena" and "Arena of the Year"; the venue hosts more than 150 events annually, attracting an average of 1,500,000 audience members to witness some of the world's top musical performers and family shows like the Ringling Brothers Barnum and Bailey Circus and Disney on Ice and serves as home of the DePaul Blue Demons basketball team (NCAA), Chicago Wolves hockey (AHL), and Chicago Rush arena football (AFL); and

WHEREAS, The beautiful plush, 4,400-seat Rosemont Theatre hosts lavish Broadway musicals, full-scale productions, and world-class entertainers including Jay Leno and the entire "Tonight Show", Ashley Judd, the Radio City Rockettes, a variety of family shows, and is home to the Chicagoland Pops Orchestra; and

WHEREAS, Rosemont is home to some of the world's most prestigious hoteliers, including Crowne Plaza, Hyatt, Marriott, Sheraton, Sofitel, Westin, Wyndham, and others, boasting more than 5,600 rooms; and

WHEREAS, Rosemont is home to some of Chicago's finest dining establishments, including Morton's, Nick's Fishmarket, Carlucci, Gibsons Steak House, and Harry Carey's; and

WHEREAS, The, tiny Village of Rosemont and its residents have generated billions of dollars for the Illinois economy and hold a strong vision for growing their convention and visitor business and service to the people of Illinois in the next 50 years; and

WHEREAS, Rosemont is kicking off its 50th anniversary year on Friday, January 20, 2006; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we recognize the year of 2006 as "The Year of Rosemont" in Illinois and encourage public and private entities to congratulate Rosemont on its "50 years of Welcoming the World"; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Village of Rosemont as an expression of our esteem.

Adopted by the House, March 1, 2006.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 85 was referred to the Committee on Rules.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 95

WHEREAS, Due to the complexity of the Property Tax Code, there is a wide disparity in the methods by which county and township assessment officials have assessed wooded land in the State; and

WHEREAS, This is a pressing problem requiring the urgent attention of the General Assembly, the Governor, and other State and local officials; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the Wooded Land Assessment Task Force is created concerning the assessment of wooded land and property under forestry management programs; and be it further

RESOLVED, That the task force shall consist of 12 voting members as follows:

(1) 4 members of the General Assembly appointed, one each, by the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;

(2) one member appointed by the Governor;

(3) the Director of Revenue or his or her designee, who shall serve as chair of the task force;

(4) the Director of Natural Resources or his or her designee;

(5) the Director of Agriculture or his or her designee;

(6) one member appointed by the University of Illinois;

(7) one member appointed by Southern Illinois University;

(6) one member, appointed by the Governor, who serves or has served as a county or township assessment official; and

(7) one member, appointed by the Governor, who has knowledge of farming and agricultural practices; and be it further

RESOLVED, That the Department of Revenue shall provide staff and administrative support services to the task force; and be it further

RESOLVED, That task force members shall serve without compensation, but may be reimbursed for their reasonable travel expenses from funds available for that purpose; and be it further

RESOLVED, That the task force shall gather information and make recommendations to the Governor and to the General Assembly regarding procedures and policies for: (1) the assessment of wooded land; and (ii) the assessment of property under a certified forestry management program under Section 10-50 of the Property Tax Code; and be it further

RESOLVED, That the task force must submit a report to the Governor and the General Assembly by December 31, 2006 concerning its findings and recommendations; and be it further

RESOLVED, That if, during the 2005 taxable year, any parcel of wooded land was valued based upon its productivity index equalized assessed value as cropland, then we urge the Department of Revenue to accept any similar valuation of that wooded land for the 2006 and 2007 taxable years; and be it further

RESOLVED, That, for the purpose of this Resolution, "wooded land" means any parcel of unimproved real property that: (i) does not qualify as cropland, permanent pasture, other farmland, or wasteland under Section 10-125 of the Property Tax Code; and (ii) is not managed under a forestry management plan and considered to be other farmland under Section 10-150 of the Property Tax Code; and be it further

RESOLVED, That a copy of this Resolution be delivered to the Governor, the Director of Revenue, the Director of Natural Resources, the Director of Agriculture, the President of the University of Illinois, and the President of Southern Illinois University.

Adopted by the House, March 1, 2006.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 95 was referred to the Committee on Rules.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 686, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4079, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4363, sponsored by Senator Viverito, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4314, sponsored by Senator Sandoval, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4397, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4404, sponsored by Senator Lightford, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4451, sponsored by Senator Lightford, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4463, sponsored by Senator Dillard, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4546, sponsored by Senator DeLeo, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4649, sponsored by Senator Millner, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5256, sponsored by Senators Sandoval, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5269, sponsored by Senator Sandoval, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5301, sponsored by Senator Shadid, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5382, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Rules.

At the hour of 9:17 o'clock a.m., Senator Hendon presiding.

EXCUSED FROM ATTENDANCE

On motion of Senator Burzynski, Senator Winkel was excused from attendance due to personal business.

SENATE BILL RECALLED

On motion of Senator Silverstein, **Senate Bill No. 2180** 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. 3 TO SENATE BILL 2180

AMENDMENT NO. 3. Amend Senate Bill 2180, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 1, line 6, by deleting "1-3.28,"; and

on page 1, by deleting lines 8 through 22; and

on page 8, line 5, by replacing "each year" with "every 2 years"; and

on page 8, immediately below line 21, by inserting the following:
"(E) The number of direct wine shipper's licenses issued."; and

on page 8, line 22, by replacing "(E)" with "(F)"; and

on page 8, line 24, by replacing "to" with "by the State Commission and"; and

on page 8, line 25, by replacing "Revenue and" with "Revenue;"; and

on page 8, by replacing lines 30 through 34 with the following:
"(15) As a means to reduce the underage consumption of"; and

on page 9, line 10, by replacing "complaints of" with "complaints or"; and

on page 14, line 2, by replacing "retailer's" with "retailer ~~retailer's~~"; and

on page 18, line 34 through page 19, line 2, by replacing "~~This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act.~~" with "This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act."; and

on page 21, line 15, by replacing "insuring" with "ensuring"; and

on page 28, line 11, by replacing "Interstate" with "Direct ~~Interstate~~"; and

on page 28, line 15, after "permitted", by inserting "an"; and

on page 28, by replacing lines 19 through 21 with "conformance with the United States Supreme Court decision decided May 16, 2005 in *Granholm v. Heald*."; and

on page 28, by replacing lines 28 and 29 with "from accessing alcoholic liquor and the expansion of youth access to additional types of alcoholic"; and

on page 28, line 31, by replacing "ensure that" with "maintain"; and

on page 29, line 2, by deleting "are protected"; and

on page 29, line 12, by replacing "Court's decisions" with "Court decision"; and

on page 29, by replacing lines 22 through 34 with the following:
"of this State who is 21 years of age or older.

(b-3) Notwithstanding any other provision of law, sale and shipment by a direct wine shipper licensee pursuant to this Section shall be deemed to constitute a sale in this State.

(b-5) The shipping container of any wine shipped under this Section shall be clearly labeled with the following words: "CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE SHOWN BEFORE DELIVERY.". This warning must be prominently displayed on the packaging. A licensee shall require the transporter or common carrier that delivers the wine to obtain the signature of a person 21 years of age or older at the delivery address at the time of delivery. At the expense of"; and

on page 30, line 6, after "label", by inserting "or approve a label"; and

on page 30, line 21, by replacing "interstate" with "direct ~~interstate~~"; and

on page 31, by deleting lines 6 through 8; and

on page 31, line 9, by replacing "(3)" with "(2)"; and

on page 31, line 14, by replacing "(4)" with "(3)"; and

on page 31, line 18, by replacing "(5)" with "(4)"; and

on page 31, by replacing lines 23 through 26 with the following:
"(5) Therefore, the paramount purpose of this Act is to continue to carefully limit direct shipment sales of wine and to continue to prohibit such direct shipment sales for spirits and beer."; and

on page 31, line 29, after "importing distributor,", by inserting "foreign importer,"; and

on page 31, line 33, by deleting "Governor and"; and

on page 32, line 17, after "importing distributor's,", by inserting "foreign importer's, direct wine shipper's,"; and

on page 32, lines 32 and 33, by replacing "State's Attorney of the county where the alcoholic liquor was delivered or with" with "~~State's Attorney of the county where the alcoholic liquor was delivered or with~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Silverstein, **Senate Bill No. 2180**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 52; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Link	Shadid
Axley	Forby	Maloney	Sieben
Bomke	Garrett	Martinez	Silverstein
Brady	Geo-Karis	Millner	Sullivan
Burzynski	Haine	Munoz	Syverson
Clayborne	Halvorson	Peterson	Trotter
Collins	Harmon	Petka	Viverito
Cronin	Hendon	Radogno	Watson
Crotty	Hunter	Raoul	Wilhelmi
Cullerton	Jacobs	Risinger	Mr. President
Dahl	Jones, J.	Ronen	
del Valle	Jones, W.	Roskam	
DeLeo	Lauzen	Sandoval	
Demuzio	Lightford	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 and ask their concurrence therein.

Senator Luechtefeld asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 2180.**

SENATE BILL RECALLED

On motion of Senator Maloney, **Senate Bill No. 2225** was recalled from the order of third reading to the order of second reading.

Senator Maloney offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2225

AMENDMENT NO. __1__. Amend Senate Bill 2225 by replacing everything after the enacting clause with the following:

"Section 5. The Board of Higher Education Act is amended by changing Section 9.07 as follows:

(110 ILCS 205/9.07) (from Ch. 144, par. 189.07)

Sec. 9.07. Admission standards.

(a) Subject to the provisions of subsection (b), to establish minimum admission standards for public community colleges, colleges and state universities. However, notwithstanding any other provision of this Section or any other law of this State, the minimum admission standards established by the Board shall not directly or indirectly authorize or require a State college or university to discriminate in the admissions process against an applicant for admission because of the applicant's enrollment in a charter

school established under Article 27A of the School Code. Admission standards for out-of-state students may be higher than for Illinois residents.

(b) Implementation of the new statewide minimum admission requirements and standards for public colleges and universities in Illinois established and announced by the Board in December, 1985 shall be deferred as provided in this subsection. The Board shall not attempt to implement or otherwise effect adoption and establishment of those minimum admission requirements and standards in any public community college, college or State university prior to the fall of 1993, and no public community college, college or State university shall be under any duty or obligation to implement, establish or otherwise apply those minimum admission requirements and standards to any entering freshmen prior to the fall of 1993. The Board of Higher Education shall provide the State Superintendent of Education, on or before January 1, 1990, descriptions of course content, and such other criteria as are necessary to determine and certify whether all school districts maintaining grades 9-12 are offering courses which satisfy the minimum admission requirements and standards established and announced by the Board. In addition, there shall be established a 9 member committee composed of 3 members selected by the Board of Higher Education, 3 members selected by the State Superintendent of Education and 3 members selected by the President of the Illinois Vocational Association. The committee shall be appointed within 30 days after the effective date of this amendatory Act. It shall be the duty and responsibility of the committee to identify and develop courses and curricula in the vocational education area which meet the minimum admission requirements and standards to be established and implemented under this Section. The first meeting of the committee shall be called by the Executive Director of the Board of Higher Education within 10 days after the committee is appointed. At its first meeting the committee shall organize and elect a chairperson. The committee's report shall be prepared and submitted by the committee to the Board of Higher Education, the Illinois State Board of Education and the General Assembly by April 1, 1989.

(c) By March 1, 1980, the Boards shall develop guidelines which: (1) place the emphasis on postsecondary remedial programs at Public Community Colleges and (2) reduces the role of the state universities in offering remedial programs. By June 30, 1981, the Board shall report to the General Assembly the progress made toward this transition in the emphasis on remedial programs at the postsecondary level and any legislative action that it deems appropriate. Under the guidelines, if a State university determines that a student needs remedial coursework, then the university must require that the student complete the remedial coursework.

(Source: P.A. 89-450, eff. 4-10-96.)

Section 10. The Higher Education Student Assistance Act is amended by changing Section 35 as follows:

(110 ILCS 947/35)

Sec. 35. Monetary award program.

(a) The Commission shall, each year, receive and consider applications for grant assistance under this Section. Subject to a separate appropriation for such purposes, an applicant is eligible for a grant under this Section when the Commission finds that the applicant:

(1) is a resident of this State and a citizen or permanent resident of the United States; and

(2) in the absence of grant assistance, will be deterred by financial considerations from completing an educational program at the qualified institution of his or her choice.

(b) The Commission shall award renewals only upon the student's application and upon the Commission's finding that the applicant:

(1) has remained a student in good standing;

(2) remains a resident of this State; and

(3) is in a financial situation that continues to warrant assistance.

(c) All grants shall be applicable only to tuition and necessary fee costs. The Commission shall determine the grant amount for each student, which shall not exceed the smallest of the following amounts:

(1) $4,968, or such lesser amount as the Commission finds to be available, during an academic year; or

(2) the amount which equals 2 semesters or 3 quarters tuition and other necessary fees required generally by the institution of all full-time undergraduate students; or

(3) such amount as the Commission finds to be appropriate in view of the applicant's financial resources.

"Tuition and other necessary fees" as used in this Section include the customary charge for instruction

and use of facilities in general, and the additional fixed fees charged for specified purposes, which are required generally of nongrant recipients for each academic period for which the grant applicant actually enrolls, but do not include fees payable only once or breakage fees and other contingent deposits which are refundable in whole or in part. The Commission may prescribe, by rule not inconsistent with this Section, detailed provisions concerning the computation of tuition and other necessary fees.

(d) No applicant, including those presently receiving scholarship assistance under this Act, is eligible for monetary award program consideration under this Act after receiving a baccalaureate degree or the equivalent of 135 semester credit hours of award payments. However, a student is not ineligible for monetary award program consideration under this subsection (d) if both of the following apply:

(1) A State university that the student was enrolled at required that the student complete remedial coursework.

(2) By subtracting the total number of semester credit hours, not to exceed 30 semester credit hours, of required remedial coursework that the student successfully completed and received award payments for, the student has received less than the equivalent of 135 semester credit hours of award payments.

(e) The Commission, in determining the number of grants to be offered, shall take into consideration past experience with the rate of grant funds unclaimed by recipients. The Commission shall notify applicants that grant assistance is contingent upon the availability of appropriated funds.

(f) The Commission may request appropriations for deposit into the Monetary Award Program Reserve Fund. Monies deposited into the Monetary Award Program Reserve Fund may be expended exclusively for one purpose: to make Monetary Award Program grants to eligible students. Amounts on deposit in the Monetary Award Program Reserve Fund may not exceed 2% of the current annual State appropriation for the Monetary Award Program.

The purpose of the Monetary Award Program Reserve Fund is to enable the Commission each year to assure as many students as possible of their eligibility for a Monetary Award Program grant and to do so before commencement of the academic year. Moneys deposited in this Reserve Fund are intended to enhance the Commission's management of the Monetary Award Program, minimizing the necessity, magnitude, and frequency of adjusting award amounts and ensuring that the annual Monetary Award Program appropriation can be fully utilized.

(g) The Commission shall determine the eligibility of and make grants to applicants enrolled at qualified for-profit institutions in accordance with the criteria set forth in this Section. The eligibility of applicants enrolled at such for-profit institutions shall be limited as follows:

(1) Beginning with the academic year 1997, only to eligible first-time freshmen and first-time transfer students who have attained an associate degree.

(2) Beginning with the academic year 1998, only to eligible freshmen students, transfer students who have attained an associate degree, and students who receive a grant under paragraph (1) for the academic year 1997 and whose grants are being renewed for the academic year 1998.

(3) Beginning with the academic year 1999, to all eligible students.

(Source: P.A. 92-45, eff. 7-1-01; 93-1032, eff. 9-2-04.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Maloney, **Senate Bill No. 2225**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 52; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Shadid
Axley	Garrett	Martinez	Sieben
Bomke	Geo-Karis	Millner	Silverstein

Burzynski	Haine	Munoz	Sullivan
Clayborne	Halvorson	Pankau	Syverson
Collins	Harmon	Peterson	Trotter
Cronin	Hendon	Petka	Viverito
Crotty	Hunter	Radogno	Watson
Cullerton	Jacobs	Raoul	Wilhelmi
Dahl	Jones, J.	Risinger	Mr. President
del Valle	Jones, W.	Ronen	
DeLeo	Lauzen	Roskam	
Demuzio	Lightford	Sandoval	
Dillard	Link	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2277** 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. 3 TO SENATE BILL 2277

AMENDMENT NO. 3. Amend Senate Bill 2277, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Horse Racing Act of 1975 is amended by changing Section 28.1 as follows:

(230 ILCS 5/28.1)

Sec. 28.1. Payments.

(a) Beginning on January 1, 2000, moneys collected by the Department of Revenue and the Racing Board pursuant to Section 26 or Section 27 of this Act shall be deposited into the Horse Racing Fund, which is hereby created as a special fund in the State Treasury.

(b) Appropriations, as approved by the General Assembly, may be made from the Horse Racing Fund to the Board to pay the salaries of the Board members, secretary, stewards, directors of mutuels, veterinarians, representatives, accountants, clerks, stenographers, inspectors and other employees of the Board, and all expenses of the Board incident to the administration of this Act, including, but not limited to, all expenses and salaries incident to the taking of saliva and urine samples in accordance with the rules and regulations of the Board.

(c) Beginning on January 1, 2000, the Board shall transfer the remainder of the funds generated pursuant to Sections 26 and 27 from the Horse Racing Fund into the General Revenue Fund.

(d) Beginning January 1, 2000, payments to all programs in existence on the effective date of this amendatory Act of 1999 that are identified in Sections 26(c), 26(f), 26(h)(11)(C), and 28, subsections (a), (b), (c), (d), (e), (f), (g), and (h) of Section 30, and subsections (a), (b), (c), (d), (e), (f), (g), and (h) of Section 31 shall be made from the General Revenue Fund at the funding levels determined by amounts paid under this Act in calendar year 1998. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, payments to the Peoria Park District shall be made from the General Revenue Fund at the funding level determined by amounts paid to that park district for museum purposes under this Act in calendar year 1994. Beginning on the effective date of this amendatory Act of the 94th General Assembly, payments to the Urbana Park District shall be made from the General Revenue Fund at the funding level determined by amounts paid to the Champaign Park District for museum purposes under this Act in calendar year 2005.

(e) Beginning July 1, 2006, the payment authorized under subsection (d) to museums and aquariums located in park districts of over 500,000 population shall be paid to museums, aquariums, and zoos in amounts determined by Museums in the Park, an association of museums, aquariums, and zoos located on Chicago Park District property.

(Source: P.A. 93-869, eff. 8-6-04.)

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 foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2277**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 53; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Schoenberg
Axley	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Millner	Sieben
Burzynski	Haine	Munoz	Silverstein
Clayborne	Halvorson	Pankau	Sullivan
Collins	Harmon	Peterson	Syverson
Cronin	Hendon	Petka	Trotter
Crotty	Hunter	Radogno	Viverito
Cullerton	Jacobs	Raoul	Watson
Dahl	Jones, J.	Righter	Wilhelmi
del Valle	Jones, W.	Risinger	Mr. President
DeLeo	Lauzen	Ronen	
Demuzio	Lightford	Roskam	
Dillard	Link	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2284** was recalled from the order of third reading to the order of second reading.

Senator Roskam offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2284

AMENDMENT NO. 3. Amend Senate Bill 2284, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, by replacing line 9 with the following:

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

"Eligible organization" means a not-for-profit organization that has been in existence for no less than 3 years, has been tax exempt for no less than 3 years from the payment of federal taxes under Section 501(c)(3) of the Internal Revenue Code, and has a principal purpose of promoting or providing services that would be eligible for funding under the Illinois Equal Justice Act.

"Residual funds""; and

on page 1, by deleting lines 23 through 24; and

on page 2, by replacing lines 1 and 2 with the following:
"distribution of any residual funds to one or more eligible organizations, except that up to 50% of"; and

on page 2, by replacing lines 10 through 13 with the following:
"any residual funds to one or more eligible organizations.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2284**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 54; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Sandoval
Axley	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Millner	Shadid
Burzynski	Haine	Munoz	Sieben
Clayborne	Halvorson	Pankau	Silverstein
Collins	Harmon	Peterson	Sullivan
Cronin	Hendon	Petka	Syverson
Crotty	Hunter	Radogno	Trotter
Cullerton	Jacobs	Raoul	Viverito
Dahl	Jones, J.	Righter	Watson
del Valle	Jones, W.	Risinger	Wilhelmi
DeLeo	Lauzen	Ronen	Mr. President
Demuzio	Lightford	Roskam	
Dillard	Link	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 2285** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2285

AMENDMENT NO. 1. Amend Senate Bill 2285 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Sections 39 and 39.2 as follows:

(415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

(Text of Section before amendment by P.A. 94-725)

Sec. 39. Issuance of permits; procedures.

(a) When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such procedures as are necessary to carry out its duties under this Section. In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment. In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with this Act as necessary to correct, detect, or prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit under this Section, the Agency shall transmit to the applicant within the time limitations of this Section specific, detailed statements as to the reasons the permit application was denied. Such statements shall include, but not be limited to the following:

(i) the Sections of this Act which may be violated if the permit were granted;

(ii) the provision of the regulations, promulgated under this Act, which may be violated if the permit were granted;

(iii) the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and

(iv) a statement of specific reasons why the Act and the regulations might not be met if the permit were granted.

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for public hearing are required by State or federal law or regulation, (2) the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

The Agency shall publish notice of all final permit determinations for development permits for MSWLF units and for significant permit modifications for lateral expansions for existing MSWLF units one time in a newspaper of general circulation in the county in which the unit is or is proposed to be located.

After January 1, 1994 and until July 1, 1998, operating permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days after the date of such a request. The Board shall revise its regulations for the existing State air pollution operating permit program consistent with this provision by January 1, 1994.

After June 30, 1998, operating permits issued under this Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required to have a federally enforceable State operating permit shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and its rules. Such operating permits shall expire 180 days after the date of such a request. Before July 1, 1998, the Board shall revise its rules for the existing State air pollution operating permit program consistent with this paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this paragraph.

(b) The Agency may issue NPDES permits exclusively under this subsection for the discharge of contaminants from point sources into navigable waters, all as defined in the Federal Water Pollution Control Act, as now or hereafter amended, within the jurisdiction of the State, or into any well.

All NPDES permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act.

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

The Agency may include, among such conditions, effluent limitations and other requirements established under this Act, Board regulations, the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto, and schedules for achieving compliance therewith at the earliest reasonable date.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of NPDES permits, and which are consistent with the Act or regulations adopted by the Board, and with the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

The Agency, subject to any conditions which may be prescribed by Board regulations, may issue NPDES permits to allow discharges beyond deadlines established by this Act or by regulations of the Board without the requirement of a variance, subject to the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.

In the event that siting approval granted pursuant to Section 39.2 has been transferred to a subsequent owner or operator, that subsequent owner or operator may apply to the Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner or operator, the permit applicant shall cause written notice of the permit application to be served upon the appropriate county board or governing body of the municipality that granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval was granted. In that event, the Agency shall conduct an evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner conducted under subsection (i) of Section 39 of this Act.

Beginning August 20, 1993, if the pollution control facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an unincorporated area of a county with a population of less than 100,000 and includes all or a portion of a parcel of land that was, on April 1, 1993, adjacent to a municipality having a population of less than 5,000, then the local siting review required under this subsection (c) in conjunction with any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than the county board of the county in which the proposed site is located; and for the purposes of that local siting review, any references in this Act to the county board shall be deemed to mean the governing body of that adjacent municipality; provided, however, that the provisions of this paragraph shall not apply to any proposed site which was, on April 1, 1993, owned in whole or in part by another municipality.

In the case of a pollution control facility for which a development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved by the appropriate county board or municipal governing body pursuant to Section 39.2 of this Act.

After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been issued by the Agency, has not accepted waste disposal for 5 or more consecutive calendars years, before that facility may accept any new or additional waste for disposal, the owner and operator must obtain a new operating permit under this Act for that facility unless the owner and operator have applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved or re-approved by the appropriate county board or municipal governing body under Section 39.2 of this Act after the facility ceased accepting waste.

Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, and except for new pollution control facilities governed by Section 39.2, and except for fossil fuel mining facilities, the granting of a permit under this Act shall not relieve

the applicant from meeting and securing all necessary zoning approvals from the unit of government having zoning jurisdiction over the proposed facility.

Before beginning construction on any new sewage treatment plant or sludge drying site to be owned or operated by a sanitary district organized under the Metropolitan Water Reclamation District Act for which a new permit (rather than the renewal or amendment of an existing permit) is required, such sanitary district shall hold a public hearing within the municipality within which the proposed facility is to be located, or within the nearest community if the proposed facility is to be located within an unincorporated area, at which information concerning the proposed facility shall be made available to the public, and members of the public shall be given the opportunity to express their views concerning the proposed facility.

The Agency may issue a permit for a municipal waste transfer station without requiring approval pursuant to Section 39.2 provided that the following demonstration is made:

(1) the municipal waste transfer station was in existence on or before January 1, 1979 and was in continuous operation from January 1, 1979 to January 1, 1993;

(2) the operator submitted a permit application to the Agency to develop and operate the municipal waste transfer station during April of 1994;

(3) the operator can demonstrate that the county board of the county, if the municipal waste transfer station is in an unincorporated area, or the governing body of the municipality, if the station is in an incorporated area, does not object to resumption of the operation of the station; and

(4) the site has local zoning approval.

(d) The Agency may issue RCRA permits exclusively under this subsection to persons owning or operating a facility for the treatment, storage, or disposal of hazardous waste as defined under this Act.

All RCRA permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith as soon as possible. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a RCRA permit.

In the case of a permit to operate a hazardous waste or PCB incinerator as defined in subsection (k) of Section 44, the Agency shall require, as a condition of the permit, that the operator of the facility perform such analyses of the waste to be incinerated as may be necessary and appropriate to ensure the safe operation of the incinerator.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(e) The Agency may issue UIC permits exclusively under this subsection to persons owning or operating a facility for the underground injection of contaminants as defined under this Act.

All UIC permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a UIC permit.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of UIC permits, and which are consistent with the Act or regulations adopted by the Board, and with the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection, all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its

decision.

(f) In making any determination pursuant to Section 9.1 of this Act:

(1) The Agency shall have authority to make the determination of any question required to be determined by the Clean Air Act, as now or hereafter amended, this Act, or the regulations of the Board, including the determination of the Lowest Achievable Emission Rate, Maximum Achievable Control Technology, or Best Available Control Technology, consistent with the Board's regulations, if any.

(2) The Agency shall, after conferring with the applicant, give written notice to the applicant of its proposed decision on the application including the terms and conditions of the permit to be issued and the facts, conduct or other basis upon which the Agency will rely to support its proposed action.

(3) Following such notice, the Agency shall give the applicant an opportunity for a hearing in accordance with the provisions of Sections 10-25 through 10-60 of the Illinois Administrative Procedure Act.

(g) The Agency shall include as conditions upon all permits issued for hazardous waste disposal sites such restrictions upon the future use of such sites as are reasonably necessary to protect public health and the environment, including permanent prohibition of the use of such sites for purposes which may create an unreasonable risk of injury to human health or to the environment. After administrative and judicial challenges to such restrictions have been exhausted, the Agency shall file such restrictions of record in the Office of the Recorder of the county in which the hazardous waste disposal site is located.

(h) A hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific authorization is obtained from the Agency by the generator and disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous. In granting authorization under this Section, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and are consistent with this Act and regulations promulgated by the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as if the Agency refused to grant a permit, pursuant to the provisions of subsection (a) of Section 40 of this Act. For purposes of this subsection (h), the term "generator" has the meaning given in Section 3.205 of this Act, unless: (1) the hazardous waste is treated, incinerated, or partially recycled for reuse prior to disposal, in which case the last person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or (2) the hazardous waste is from a response action, in which case the person performing the response action is the generator. This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 728.

(i) Before issuing any RCRA permit, any permit for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste incinerator, or any waste-transportation operation, or any permit for a clean construction or demolition debris fill operation, the Agency shall conduct an evaluation of the prospective owner's or operator's prior experience in waste management operations. The Agency may deny such a permit if the prospective owner or operator or any employee or officer of the prospective owner or operator has a history of:

(1) repeated violations of federal, State, or local laws, regulations, standards, or ordinances in the operation of waste management facilities or sites; or

(2) conviction in this or another State of any crime which is a felony under the laws of this State, or conviction of a felony in a federal court; or

(3) proof of gross carelessness or incompetence in handling, storing, processing, transporting or disposing of waste.

(i-5) Before issuing any permit or approving any interim authorization for a clean construction or demolition debris fill operation in which any ownership interest is transferred between January 1, 2005, and the effective date of the prohibition set forth in Section 22.52 of this Act, the Agency shall conduct an evaluation of the operation if any previous activities at the site or facility may have caused or allowed contamination of the site. It shall be the responsibility of the owner or operator seeking the permit or interim authorization to provide to the Agency all of the information necessary for the Agency to conduct its evaluation. The Agency may deny a permit or interim authorization if previous activities at the site may have caused or allowed contamination at the site, unless such contamination is authorized under any permit issued by the Agency.

(j) The issuance under this Act of a permit to engage in the surface mining of any resources other than

fossil fuels shall not relieve the permittee from its duty to comply with any applicable local law regulating the commencement, location or operation of surface mining facilities.

(k) A development permit issued under subsection (a) of Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at the end of 2 calendar years from the date upon which it was issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that review of the conditions of the development permit is sought pursuant to Section 40 or 41, or permittee is prevented from commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year period shall be deemed to begin on the date upon which such review process or litigation is concluded.

(l) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

(m) The Agency may issue permits to persons owning or operating a facility for composting landscape waste. In granting such permits, the Agency may impose such conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with applicable regulations promulgated by the Board. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit pursuant to this subsection, the Agency shall transmit to the applicant within the time limitations of this subsection specific, detailed statements as to the reasons the permit application was denied. Such statements shall include but not be limited to the following:

(1) the Sections of this Act that may be violated if the permit were granted;

(2) the specific regulations promulgated pursuant to this Act that may be violated if the permit were granted;

(3) the specific information, if any, the Agency deems the applicant did not provide in its application to the Agency; and

(4) a statement of specific reasons why the Act and the regulations might be violated if the permit were granted.

If no final action is taken by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of 200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

(1) the facility includes a setback of at least 200 feet from the nearest potable water supply well;

(2) the facility is located outside the boundary of the 10-year floodplain or the site will be floodproofed;

(3) the facility is located so as to minimize incompatibility with the character of the surrounding area, including at least a 200 foot setback from any residence, and in the case of a facility that is developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is located at least 1/8 mile from the nearest residence (other than a residence located on the same property as the facility);

(4) the design of the facility will prevent any compost material from being placed within 5 feet of the water table, will adequately control runoff from the site, and will collect and manage any leachate that is generated on the site;

(5) the operation of the facility will include appropriate dust and odor control measures, limitations on operating hours, appropriate noise control measures for shredding, chipping and similar equipment, management procedures for composting, containment and disposal of non-compostable wastes, procedures to be used for terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, composted and otherwise disposed of; and

(6) the operation will be conducted in accordance with any applicable rules adopted by the Board.

The Agency shall issue renewable permits of not longer than 10 years in duration for the composting of landscape wastes, as defined in Section 3.155 of this Act, based on the above requirements.

The operator of any facility permitted under this subsection (m) must submit a written annual statement to the Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for composting.

(n) The Agency shall issue permits jointly with the Department of Transportation for the dredging or deposit of material in Lake Michigan in accordance with Section 18 of the Rivers, Lakes, and Streams Act.

(o) (Blank.)

(p) (1) Any person submitting an application for a permit for a new MSWLF unit or for a lateral expansion under subsection (t) of Section 21 of this Act for an existing MSWLF unit that has not received and is not subject to local siting approval under Section 39.2 of this Act shall publish notice of the application in a newspaper of general circulation in the county in which the MSWLF unit is or is proposed to be located. The notice must be published at least 15 days before submission of the permit application to the Agency. The notice shall state the name and address of the applicant, the location of the MSWLF unit or proposed MSWLF unit, the nature and size of the MSWLF unit or proposed MSWLF unit, the nature of the activity proposed, the probable life of the proposed activity, the date the permit application will be submitted, and a statement that persons may file written comments with the Agency concerning the permit application within 30 days after the filing of the permit application unless the time period to submit comments is extended by the Agency.

When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the Agency, the applicant shall not be required to reissue the notice under this subsection.

(2) The Agency shall accept written comments concerning the permit application that are postmarked no later than 30 days after the filing of the permit application, unless the time period to accept comments is extended by the Agency.

(3) Each applicant for a permit described in part (1) of this subsection shall file a copy of the permit application with the county board or governing body of the municipality in which the MSWLF unit is or is proposed to be located at the same time the application is submitted to the Agency. The permit application filed with the county board or governing body of the municipality shall include all documents submitted to or to be submitted to the Agency, except trade secrets as determined under Section 7.1 of this Act. The permit application and other documents on file with the county board or governing body of the municipality shall be made available for public inspection during regular business hours at the office of the county board or the governing body of the municipality and may be copied upon payment of the actual cost of reproduction.

(Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05.)

(Text of Section after amendment by P.A. 94-725)

Sec. 39. Issuance of permits; procedures.

(a) When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such procedures as are necessary to carry out its duties under this Section. In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment. In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with this Act as necessary to correct, detect, or prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit under this Section, the Agency shall transmit to the applicant within the time limitations of this Section specific, detailed statements as to the reasons the permit application was denied. Such statements shall include, but not be limited to the following:

(i) the Sections of this Act which may be violated if the permit were granted;

(ii) the provision of the regulations, promulgated under this Act, which may be violated if the permit were granted;

(iii) the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and

(iv) a statement of specific reasons why the Act and the regulations might not be met if the permit were granted.

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for public hearing are required by State or federal law or regulation, (2)

the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

The Agency shall publish notice of all final permit determinations for development permits for MSWLF units and for significant permit modifications for lateral expansions for existing MSWLF units one time in a newspaper of general circulation in the county in which the unit is or is proposed to be located.

After January 1, 1994 and until July 1, 1998, operating permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days after the date of such a request. The Board shall revise its regulations for the existing State air pollution operating permit program consistent with this provision by January 1, 1994.

After June 30, 1998, operating permits issued under this Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required to have a federally enforceable State operating permit shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and its rules. Such operating permits shall expire 180 days after the date of such a request. Before July 1, 1998, the Board shall revise its rules for the existing State air pollution operating permit program consistent with this paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this paragraph.

(b) The Agency may issue NPDES permits exclusively under this subsection for the discharge of contaminants from point sources into navigable waters, all as defined in the Federal Water Pollution Control Act, as now or hereafter amended, within the jurisdiction of the State, or into any well.

All NPDES permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act.

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

The Agency may include, among such conditions, effluent limitations and other requirements established under this Act, Board regulations, the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto, and schedules for achieving compliance therewith at the earliest reasonable date.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of NPDES permits, and which are consistent with the Act or regulations adopted by the Board, and with the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

The Agency, subject to any conditions which may be prescribed by Board regulations, may issue NPDES permits to allow discharges beyond deadlines established by this Act or by regulations of the Board without the requirement of a variance, subject to the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. <u>For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.</u>

In the event that siting approval granted pursuant to Section 39.2 has been transferred to a subsequent owner or operator, that subsequent owner or operator may apply to the Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner or operator, the permit applicant shall cause written notice of the permit application to be served upon the

appropriate county board or governing body of the municipality that granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval was granted. In that event, the Agency shall conduct an evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner conducted under subsection (i) of Section 39 of this Act.

Beginning August 20, 1993, if the pollution control facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an unincorporated area of a county with a population of less than 100,000 and includes all or a portion of a parcel of land that was, on April 1, 1993, adjacent to a municipality having a population of less than 5,000, then the local siting review required under this subsection (c) in conjunction with any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than the county board of the county in which the proposed site is located; and for the purposes of that local siting review, any references in this Act to the county board shall be deemed to mean the governing body of that adjacent municipality; provided, however, that the provisions of this paragraph shall not apply to any proposed site which was, on April 1, 1993, owned in whole or in part by another municipality.

In the case of a pollution control facility for which a development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved by the appropriate county board or municipal governing body pursuant to Section 39.2 of this Act.

After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been issued by the Agency, has not accepted waste disposal for 5 or more consecutive calendars years, before that facility may accept any new or additional waste for disposal, the owner and operator must obtain a new operating permit under this Act for that facility unless the owner and operator have applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved or re-approved by the appropriate county board or municipal governing body under Section 39.2 of this Act after the facility ceased accepting waste.

Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, and except for new pollution control facilities governed by Section 39.2, and except for fossil fuel mining facilities, the granting of a permit under this Act shall not relieve the applicant from meeting and securing all necessary zoning approvals from the unit of government having zoning jurisdiction over the proposed facility.

Before beginning construction on any new sewage treatment plant or sludge drying site to be owned or operated by a sanitary district organized under the Metropolitan Water Reclamation District Act for which a new permit (rather than the renewal or amendment of an existing permit) is required, such sanitary district shall hold a public hearing within the municipality within which the proposed facility is to be located, or within the nearest community if the proposed facility is to be located within an unincorporated area, at which information concerning the proposed facility shall be made available to the public, and members of the public shall be given the opportunity to express their views concerning the proposed facility.

The Agency may issue a permit for a municipal waste transfer station without requiring approval pursuant to Section 39.2 provided that the following demonstration is made:

(1) the municipal waste transfer station was in existence on or before January 1, 1979 and was in continuous operation from January 1, 1979 to January 1, 1993;

(2) the operator submitted a permit application to the Agency to develop and operate the municipal waste transfer station during April of 1994;

(3) the operator can demonstrate that the county board of the county, if the municipal waste transfer station is in an unincorporated area, or the governing body of the municipality, if the station is in an incorporated area, does not object to resumption of the operation of the station; and

(4) the site has local zoning approval.

(d) The Agency may issue RCRA permits exclusively under this subsection to persons owning or operating a facility for the treatment, storage, or disposal of hazardous waste as defined under this Act.

All RCRA permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and

regulations pursuant thereto, and may include schedules for achieving compliance therewith as soon as possible. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a RCRA permit.

In the case of a permit to operate a hazardous waste or PCB incinerator as defined in subsection (k) of Section 44, the Agency shall require, as a condition of the permit, that the operator of the facility perform such analyses of the waste to be incinerated as may be necessary and appropriate to ensure the safe operation of the incinerator.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(e) The Agency may issue UIC permits exclusively under this subsection to persons owning or operating a facility for the underground injection of contaminants as defined under this Act.

All UIC permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a UIC permit.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of UIC permits, and which are consistent with the Act or regulations adopted by the Board, and with the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection, all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(f) In making any determination pursuant to Section 9.1 of this Act:

(1) The Agency shall have authority to make the determination of any question required to be determined by the Clean Air Act, as now or hereafter amended, this Act, or the regulations of the Board, including the determination of the Lowest Achievable Emission Rate, Maximum Achievable Control Technology, or Best Available Control Technology, consistent with the Board's regulations, if any.

(2) The Agency shall, after conferring with the applicant, give written notice to the applicant of its proposed decision on the application including the terms and conditions of the permit to be issued and the facts, conduct or other basis upon which the Agency will rely to support its proposed action.

(3) Following such notice, the Agency shall give the applicant an opportunity for a hearing in accordance with the provisions of Sections 10-25 through 10-60 of the Illinois Administrative Procedure Act.

(g) The Agency shall include as conditions upon all permits issued for hazardous waste disposal sites such restrictions upon the future use of such sites as are reasonably necessary to protect public health and the environment, including permanent prohibition of the use of such sites for purposes which may create an unreasonable risk of injury to human health or to the environment. After administrative and judicial challenges to such restrictions have been exhausted, the Agency shall file such restrictions of record in the Office of the Recorder of the county in which the hazardous waste disposal site is located.

(h) A hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific authorization is obtained from the Agency by the generator and disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to

neutralize the hazardous waste and render it nonhazardous. In granting authorization under this Section, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and are consistent with this Act and regulations promulgated by the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as if the Agency refused to grant a permit, pursuant to the provisions of subsection (a) of Section 40 of this Act. For purposes of this subsection (h), the term "generator" has the meaning given in Section 3.205 of this Act, unless: (1) the hazardous waste is treated, incinerated, or partially recycled for reuse prior to disposal, in which case the last person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or (2) the hazardous waste is from a response action, in which case the person performing the response action is the generator. This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 728.

(i) Before issuing any RCRA permit, any permit for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste incinerator, or any waste-transportation operation, or any permit or interim authorization for a clean construction or demolition debris fill operation, the Agency shall conduct an evaluation of the prospective owner's or operator's prior experience in waste management operations and clean construction or demolition debris fill operations. The Agency may deny such a permit, or deny or revoke interim authorization, if the prospective owner or operator or any employee or officer of the prospective owner or operator has a history of:

(1) repeated violations of federal, State, or local laws, regulations, standards, or ordinances in the operation of waste management facilities or sites or clean construction or demolition debris fill operation facilities or sites; or

(2) conviction in this or another State of any crime which is a felony under the laws of this State, or conviction of a felony in a federal court; or conviction in this or another state or federal court of any of the following crimes: forgery, official misconduct, bribery, perjury, or knowingly submitting false information under any environmental law, regulation, or permit term or condition; or

(3) proof of gross carelessness or incompetence in handling, storing, processing, transporting or disposing of waste or clean construction or demolition debris, or proof of gross carelessness or incompetence in using clean construction or demolition debris as fill.

(i-5) Before issuing any permit or approving any interim authorization for a clean construction or demolition debris fill operation in which any ownership interest is transferred between January 1, 2005, and the effective date of the prohibition set forth in Section 22.52 of this Act, the Agency shall conduct an evaluation of the operation if any previous activities at the site or facility may have caused or allowed contamination of the site. It shall be the responsibility of the owner or operator seeking the permit or interim authorization to provide to the Agency all of the information necessary for the Agency to conduct its evaluation. The Agency may deny a permit or interim authorization if previous activities at the site may have caused or allowed contamination at the site, unless such contamination is authorized under any permit issued by the Agency.

(j) The issuance under this Act of a permit to engage in the surface mining of any resources other than fossil fuels shall not relieve the permittee from its duty to comply with any applicable local law regulating the commencement, location or operation of surface mining facilities.

(k) A development permit issued under subsection (a) of Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at the end of 2 calendar years from the date upon which it was issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that review of the conditions of the development permit is sought pursuant to Section 40 or 41, or permittee is prevented from commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year period shall be deemed to begin on the date upon which such review process or litigation is concluded.

(l) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

(m) The Agency may issue permits to persons owning or operating a facility for composting landscape waste. In granting such permits, the Agency may impose such conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with applicable regulations promulgated by the Board. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit pursuant to this subsection, the Agency shall transmit to the applicant within the time limitations of this subsection specific, detailed statements as to the reasons the permit application was denied. Such statements shall include but not be

limited to the following:

(1) the Sections of this Act that may be violated if the permit were granted;

(2) the specific regulations promulgated pursuant to this Act that may be violated if the permit were granted;

(3) the specific information, if any, the Agency deems the applicant did not provide in its application to the Agency; and

(4) a statement of specific reasons why the Act and the regulations might be violated if the permit were granted.

If no final action is taken by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of 200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

(1) the facility includes a setback of at least 200 feet from the nearest potable water supply well;

(2) the facility is located outside the boundary of the 10-year floodplain or the site will be floodproofed;

(3) the facility is located so as to minimize incompatibility with the character of the surrounding area, including at least a 200 foot setback from any residence, and in the case of a facility that is developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is located at least 1/8 mile from the nearest residence (other than a residence located on the same property as the facility);

(4) the design of the facility will prevent any compost material from being placed within 5 feet of the water table, will adequately control runoff from the site, and will collect and manage any leachate that is generated on the site;

(5) the operation of the facility will include appropriate dust and odor control measures, limitations on operating hours, appropriate noise control measures for shredding, chipping and similar equipment, management procedures for composting, containment and disposal of non-compostable wastes, procedures to be used for terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, composted and otherwise disposed of; and

(6) the operation will be conducted in accordance with any applicable rules adopted by the Board.

The Agency shall issue renewable permits of not longer than 10 years in duration for the composting of landscape wastes, as defined in Section 3.155 of this Act, based on the above requirements.

The operator of any facility permitted under this subsection (m) must submit a written annual statement to the Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for composting.

(n) The Agency shall issue permits jointly with the Department of Transportation for the dredging or deposit of material in Lake Michigan in accordance with Section 18 of the Rivers, Lakes, and Streams Act.

(o) (Blank.)

(p) (1) Any person submitting an application for a permit for a new MSWLF unit or for a lateral expansion under subsection (t) of Section 21 of this Act for an existing MSWLF unit that has not received and is not subject to local siting approval under Section 39.2 of this Act shall publish notice of the application in a newspaper of general circulation in the county in which the MSWLF unit is or is proposed to be located. The notice must be published at least 15 days before submission of the permit application to the Agency. The notice shall state the name and address of the applicant, the location of the MSWLF unit or proposed MSWLF unit, the nature and size of the MSWLF unit or proposed MSWLF unit, the nature of the activity proposed, the probable life of the proposed activity, the date the permit application will be submitted, and a statement that persons may file written comments with the Agency concerning the permit application within 30 days after the filing of the permit application unless the time period to submit comments is extended by the Agency.

When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the Agency, the applicant shall not be required to reissue the notice under this subsection.

(2) The Agency shall accept written comments concerning the permit application that are postmarked no later than 30 days after the filing of the permit application, unless the time period to accept comments

is extended by the Agency.

(3) Each applicant for a permit described in part (1) of this subsection shall file a copy of the permit application with the county board or governing body of the municipality in which the MSWLF unit is or is proposed to be located at the same time the application is submitted to the Agency. The permit application filed with the county board or governing body of the municipality shall include all documents submitted to or to be submitted to the Agency, except trade secrets as determined under Section 7.1 of this Act. The permit application and other documents on file with the county board or governing body of the municipality shall be made available for public inspection during regular business hours at the office of the county board or the governing body of the municipality and may be copied upon payment of the actual cost of reproduction.

(Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05; 94-725, eff. 6-1-06.)

(415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

Sec. 39.2. Local siting review.

(a) The county board of the county or the governing body of the municipality, as determined by paragraph (c) of Section 39 of this Act, shall approve or disapprove the request for local siting approval for each pollution control facility which is subject to such review. An applicant for local siting approval shall submit sufficient details describing the proposed facility to demonstrate compliance, and local siting approval shall be granted only if the proposed facility meets the following criteria:

(i) the facility is necessary to accommodate the waste needs of the area it is intended to serve;

(ii) the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(iii) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

(iv) (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;

(v) the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

(vi) the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;

(vii) if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

(viii) if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; for purposes of this criterion (viii), the "solid waste management plan" means the plan that is in effect as of the date the application for siting approval is filed; and

(ix) if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

The county board or the governing body of the municipality may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria (ii) and (v) under this Section.

<u>If the facility is subject to the location restrictions in Section 22.14 of this Act, compliance with that Section shall be determined as of the date the application for siting approval is filed.</u>

(b) No later than 14 days before the date on which the county board or governing body of the municipality receives a request for site approval, the applicant shall cause written notice of such request to be served either in person or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by the applicant, and on the owners of all property within 250 feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the County in which such facility is to be located; provided, that the number of all feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement; provided further, that in no event shall this requirement exceed 400 feet, including public streets, alleys and other public ways.

Such written notice shall also be served upon members of the General Assembly from the legislative

district in which the proposed facility is located and shall be published in a newspaper of general circulation published in the county in which the site is located.

Such notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on such request as hereafter provided.

(c) An applicant shall file a copy of its request with the county board of the county or the governing body of the municipality in which the proposed site is located. The request shall include (i) the substance of the applicant's proposal and (ii) all documents, if any, submitted as of that date to the Agency pertaining to the proposed facility, except trade secrets as determined under Section 7.1 of this Act. All such documents or other materials on file with the county board or governing body of the municipality shall be made available for public inspection at the office of the county board or the governing body of the municipality and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the county board or governing body of the municipality concerning the appropriateness of the proposed site for its intended purpose. The county board or governing body of the municipality shall consider any comment received or postmarked not later than 30 days after the date of the last public hearing.

(d) At least one public hearing is to be held by the county board or governing body of the municipality no sooner than 90 days but no later than 120 days after the date on which it received the request for site approval. No later than 14 days prior to such hearing, notice shall be published in a newspaper of general circulation published in the county of the proposed site, and delivered by certified mail to all members of the General Assembly from the district in which the proposed site is located, to the governing authority of every municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located, to the county board of the county where the proposed site is to be located, if the proposed site is located within the boundaries of a municipality, and to the Agency. Members or representatives of the governing authority of a municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located and, if the proposed site is located in a municipality, members or representatives of the county board of a county in which the proposed site is to be located may appear at and participate in public hearings held pursuant to this Section. The public hearing shall develop a record sufficient to form the basis of appeal of the decision in accordance with Section 40.1 of this Act. The fact that a member of the county board or governing body of the municipality has publicly expressed an opinion on an issue related to a site review proceeding shall not preclude the member from taking part in the proceeding and voting on the issue.

(e) Decisions of the county board or governing body of the municipality are to be in writing, specifying the reasons for the decision, such reasons to be in conformance with subsection (a) of this Section. In granting approval for a site the county board or governing body of the municipality may impose such conditions as may be reasonable and necessary to accomplish the purposes of this Section and as are not inconsistent with regulations promulgated by the Board. Such decision shall be available for public inspection at the office of the county board or governing body of the municipality and may be copied upon payment of the actual cost of reproduction. If there is no final action by the county board or governing body of the municipality within 180 days after the date on which it received the request for site approval, the applicant may deem the request approved.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by the county board or governing body of the municipality and any participants, the applicant may file not more than one amended application upon payment of additional fees pursuant to subsection (k); in which case the time limitation for final action set forth in this subsection (e) shall be extended for an additional period of 90 days.

If, prior to making a final local siting decision, a county board or governing body of a municipality has negotiated and entered into a host agreement with the local siting applicant, the terms and conditions of the host agreement, whether written or oral, shall be disclosed and made a part of the hearing record for that local siting proceeding. In the case of an oral agreement, the disclosure shall be made in the form of a written summary jointly prepared and submitted by the county board or governing body of the municipality and the siting applicant and shall describe the terms and conditions of the oral agreement.

(e-5) Siting approval obtained pursuant to this Section is transferable and may be transferred to a subsequent owner or operator. In the event that siting approval has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes and takes subject to any and all conditions imposed upon the prior owner or operator by the county board of the county or governing body of the municipality pursuant to subsection (e). However, any such conditions imposed pursuant to this Section may be modified by agreement between the subsequent owner or operator and the appropriate county

board or governing body. Further, in the event that siting approval obtained pursuant to this Section has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes all rights and obligations and takes the facility subject to any and all terms and conditions of any existing host agreement between the prior owner or operator and the appropriate county board or governing body.

(f) A local siting approval granted under this Section shall expire at the end of 2 calendar years from the date upon which it was granted, unless the local siting approval granted under this Section is for a sanitary landfill operation, in which case the approval shall expire at the end of 3 calendar years from the date upon which it was granted, and unless within that period the applicant has made application to the Agency for a permit to develop the site. In the event that the local siting decision has been appealed, such expiration period shall be deemed to begin on the date upon which the appeal process is concluded.

Except as otherwise provided in this subsection, upon the expiration of a development permit under subsection (k) of Section 39, any associated local siting approval granted for the facility under this Section shall also expire.

If a first development permit for a municipal waste incineration facility expires under subsection (k) of Section 39 after September 30, 1989 due to circumstances beyond the control of the applicant, any associated local siting approval granted for the facility under this Section may be used to fulfill the local siting approval requirement upon application for a second development permit for the same site, provided that the proposal in the new application is materially the same, with respect to the criteria in subsection (a) of this Section, as the proposal that received the original siting approval, and application for the second development permit is made before January 1, 1990.

(g) The siting approval procedures, criteria and appeal procedures provided for in this Act for new pollution control facilities shall be the exclusive siting procedures and rules and appeal procedures for facilities subject to such procedures. Local zoning or other local land use requirements shall not be applicable to such siting decisions.

(h) Nothing in this Section shall apply to any existing or new pollution control facility located within the corporate limits of a municipality with a population of over 1,000,000.

(i) (Blank.)

The Board shall adopt regulations establishing the geologic and hydrologic siting criteria necessary to protect usable groundwater resources which are to be followed by the Agency in its review of permit applications for new pollution control facilities. Such regulations, insofar as they apply to new pollution control facilities authorized to store, treat or dispose of any hazardous waste, shall be at least as stringent as the requirements of the Resource Conservation and Recovery Act and any State or federal regulations adopted pursuant thereto.

(j) Any new pollution control facility which has never obtained local siting approval under the provisions of this Section shall be required to obtain such approval after a final decision on an appeal of a permit denial.

(k) A county board or governing body of a municipality may charge applicants for siting review under this Section a reasonable fee to cover the reasonable and necessary costs incurred by such county or municipality in the siting review process.

(l) The governing Authority as determined by subsection (c) of Section 39 of this Act may request the Department of Transportation to perform traffic impact studies of proposed or potential locations for required pollution control facilities.

(m) An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of criteria (i) through (ix) of subsection (a) of this Section within the preceding 2 years.

(n) In any review proceeding of a decision of the county board or governing body of a municipality made pursuant to the local siting review process, the petitioner in the review proceeding shall pay to the county or municipality the cost of preparing and certifying the record of proceedings. Should the petitioner in the review proceeding fail to make payment, the provisions of Section 3-109 of the Code of Civil Procedure shall apply.

In the event the petitioner is a citizens' group that participated in the siting proceeding and is so located as to be affected by the proposed facility, such petitioner shall be exempt from paying the costs of preparing and certifying the record.

(o) Notwithstanding any other provision of this Section, a transfer station used exclusively for landscape waste, where landscape waste is held no longer than 24 hours from the time it was received, is not subject to the requirements of local siting approval under this Section, but is subject only to local zoning approval.

(Source: P.A. 94-591, eff. 8-15-05.)

(415 ILCS 115/Act rep.)

Section 10. The Illinois Pollution Prevention Act is repealed.

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 97. Applicability. The changes made by Section 5 of this amendatory Act of the 94th General Assembly apply only to siting applications filed on or after the effective date of this amendatory Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 2285**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 40; Nays 11.

The following voted in the affirmative:

Burzynski	Geo-Karis	Millner	Sieben
Clayborne	Haine	Munoz	Silverstein
Collins	Halvorson	Pankau	Sullivan
Crotty	Hendon	Peterson	Trotter
Cullerton	Hunter	Raoul	Viverito
del Valle	Jacobs	Righter	Wilhelmi
DeLeo	Jones, W.	Risinger	Mr. President
Demuzio	Lightford	Ronen	
Dillard	Link	Sandoval	
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	

The following voted in the negative:

Althoff	Dahl	Lauzen	Roskam
Axley	Harmon	Petka	Rutherford
Bomke	Jones, J.	Radogno	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Martinez, **Senate Bill No. 2290** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2290

AMENDMENT NO. 2. Amend Senate Bill 2290 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Comprehensive Housing Planning Act.

Section 5. Definitions. In this Act:

"Authority" means the Illinois Housing Development Authority.

"Executive Committee" means the Executive Committee of the State Housing Task Force, which shall consist of 13 members of the State Housing Task Force: the Chair, the Vice-Chair, a representative of the Governor's Office, a representative of the Governor's Office of Management and Budget responsible for Bond Cap allocation in the State, the Director of Commerce and Economic Opportunity or his or her designee, the Secretary of Human Services or his or her designee, and 7 housing experts from the State Housing Task Force as designated by the Governor.

"Interagency Subcommittee" means the Interagency Subcommittee of the State Housing Task Force, which shall consist of the following members or their designees: the Executive Director of the Authority; the Secretaries of Human Services and Transportation; the Directors of the State Departments of Aging, Children and Family Services, Commerce and Economic Opportunity, Financial and Professional Regulation, Healthcare and Family Services, Human Rights, Natural Resources, Public Health, and Veterans' Affairs; the Director of the Environmental Protection Agency; a representative of the Governor's Office; and a representative of the Governor's Office of Management and Budget.

"State Housing Task Force" or "Task Force" means a task force comprised of the following persons or their designees: the Executive Director of the Authority; a representative of the Governor's Office; a representative of the Lieutenant Governor's Office; the Secretaries of Human Services and Transportation; the Directors of the State Departments of Aging, Children and Family Services, Commerce and Economic Opportunity, Financial and Professional Regulation, Healthcare and Family Services, Human Rights, Natural Resources, Public Health, and Veterans' Affairs; the Director of the Environmental Protection Agency; and a representative of the Governor's Office of Management and Budget. The Governor may also invite and appoint the following to the Task Force: a representative of the Illinois Institute for Rural Affairs of Western Illinois University; representatives of the U. S. Departments of Housing and Urban Development (HUD) and Agriculture; and up to 18 housing experts, with proportional representation from urban, suburban, and rural areas throughout the State. The Speaker of the Illinois House of Representatives, the President of the Illinois Senate, the Minority Leader of the Illinois House of Representatives, and the Minority Leader of the Illinois Senate may each appoint one representative to the Task Force. The Executive Director of the Authority shall serve as Chair of the Task Force. The Governor shall appoint a housing expert from the non-governmental sector to serve as Vice-Chair.

Section 10. Purpose. In order to maintain the economic health of its communities, the State must have a comprehensive and unified policy for the allocation of resources for affordable housing and supportive services for historically underserved populations throughout the State. Executive Order 2003-18, issued September 16, 2003, created the Illinois Housing Initiative through December 31, 2008, which led to the adoption of the first Annual Comprehensive Housing Plan for the State of Illinois. The General Assembly determines that it is now necessary to codify provisions of Executive Order 2003-18 in order to accomplish the following:

(1) address the need to make available quality housing at a variety of price points in communities throughout the State;

(2) overcome the shortage of affordable housing, which threatens the viability of many communities;

(3) meet the need for safe, sanitary, and accessible affordable housing and supportive services for people with disabilities;

(4) promote a full range of quality housing choices near jobs, transit, and other amenities;

(5) meet the needs of constituencies that have been historically underserved and segregated due to barriers and trends in the existing housing market or insufficient resources;

(6) facilitate the preservation of ownership of existing homes and rental housing in communities;

(7) create new housing opportunities and, where appropriate, promote mixed-income

communities; and

(8) encourage development of State incentives for communities to create a mix of housing to meet the needs of current and future residents.

Section 15. Annual Comprehensive Housing Plan.

(a) During the period from the effective date of this Act through June 30, 2016, the State of Illinois shall prepare and be guided by an annual comprehensive housing plan ("Annual Comprehensive Housing Plan") that is consistent with the affirmative fair housing provisions of the Illinois Human Rights Act and specifically addresses the following underserved populations:

(1) households earning below 50% of the area median income, with particular emphasis on households earning below 30% of the area median income;

(2) low-income senior citizens;

(3) low-income persons with any form of disability, including, but not limited to, physical disability, developmental disability, mental illness, co-occurring mental illness and substance abuse disorder, and HIV/AIDS;

(4) homeless persons and persons determined to be at risk of homelessness;

(5) low-income and moderate-income persons unable to afford housing near work or transportation; and

(6) low-income persons residing in existing affordable housing that is in danger of becoming unaffordable or being lost.

(b) The Annual Comprehensive Housing Plan shall include, but need not be limited to, the following:

(1) The identification of all funding sources for which the State has administrative control that are available for housing construction, rehabilitation, preservation, operating or rental subsidies, and supportive services.

(2) Goals for the number and types of housing units to be constructed, preserved, or rehabilitated each year for the underserved populations identified in subsection (a) of Section 15, based on available housing resources.

(3) Funding recommendations for types of programs for housing construction, preservation, rehabilitation, and supportive services, where necessary, related to the underserved populations identified in subsection (a) of Section 15, based on the Annual Comprehensive Housing Plan.

(4) Specific actions needed to ensure the coordination of State government resources that can be used to build or preserve affordable housing, provide services to accompany the creation of affordable housing, and prevent homelessness.

(5) Recommended State actions that promote the construction, preservation, and rehabilitation of affordable housing by private-sector, not-for-profit, and government entities and address those practices that impede such promotion.

(6) Specific suggestions for incentives for counties and municipalities to develop and implement local comprehensive housing plans that would encourage a mix of housing to meet the needs of current and future residents.

(7) Identification of options that counties, municipalities, and other local jurisdictions, including public housing authorities, can take to construct, rehabilitate, or preserve housing in their own communities for the underserved populations identified in Section 10 of this Act.

(c) The Interagency Subcommittee, with staff support and coordination assistance from the Authority, shall develop the Annual Comprehensive Housing Plan. The State Housing Task Force shall provide advice and guidance to the Interagency Subcommittee in developing the Plan. The Interagency Subcommittee shall deliver the Annual Comprehensive Housing Plan to the Governor and the General Assembly by January 1 of each year or the first business day thereafter. The Authority, on behalf of the Interagency Subcommittee, shall prepare an interim report by September 30 and a final report by April 1 of the following year to the Governor and the General Assembly on the progress made toward achieving the projected goals of the Annual Comprehensive Housing Plan during the previous calendar year. These reports shall include estimates of revenues, expenditures, obligations, bond allocations, and fund balances for all programs or funds addressed in the Annual Comprehensive Housing Plan.

(d) The Authority shall provide staffing to the Interagency Subcommittee, the Task Force, and the Executive Committee of the Task Force. It shall also provide the staff support needed to help coordinate the implementation of the Annual Comprehensive Housing Plan during the course of the

year. The Authority shall be eligible for reimbursement of up to $300,000 per year for such staff support costs from a designated funding source, if available, or from the Illinois Affordable Housing Trust Fund.

Section 20. Executive Committee. The Executive Committee shall:

(1) Oversee and structure the operations of the Task Force.

(2) Create necessary subcommittees and appoint subcommittee members, with the advice of the Task Force and the Interagency Subcommittee, as the Executive Committee deems necessary.

(3) Ensure adequate public input into the Annual Comprehensive Housing Plan.

(4) Involve, to the extent possible, appropriate representatives of the federal government, local governments and municipalities, public housing authorities, local continuum-of-care, for-profit, and not-for-profit developers, supportive housing providers, business, labor, lenders, advocates for the underserved populations named in this Act, and fair housing agencies.

(5) Have input into the development of the Annual Comprehensive Housing Plan and the Annual Report prepared by the Authority before the Authority submits them to the Task Force.

Section 25. Interagency Subcommittee. The Interagency Subcommittee and its member agencies shall:

(1) Be responsible for providing the information needed to develop the Annual Comprehensive Housing Plan as well as the interim and final Plan reports.

(2) Develop the Annual Comprehensive Housing Plan.

(3) Oversee the implementation of the Plan by coordinating, streamlining, and prioritizing the allocation of available production, rehabilitation, preservation, financial, and service resources.

Section 30. Notice of Funding Availability. The Authority, in consultation with other participating members of the Interagency Subcommittee, shall annually issue a joint Notice of Funding Availability ("NOFA") to notify potential applicants of funding for specific programs expected to be available through State agencies to meet housing and supportive service needs identified in the Annual Comprehensive Housing Plan. Prior to issuance of this NOFA, and before October 1 of each year, each Interagency Subcommittee member shall provide the Chairman of the Interagency Subcommittee with a report of funding earmarked for the NOFA, contingent on funding availability through annual appropriation. The Authority and other members of the Interagency Subcommittee may continue to provide additional opportunities for funding available under programs they administer, apart from this joint NOFA. The joint NOFA shall indicate the target number and types of housing units to be constructed, rehabilitated, preserved, and targeted for supportive services funding for the underserved populations. A NOFA may include, but need not be limited to, information regarding:

(1) available funding for property acquisition, construction, rehabilitation, or preservation of each type of housing;

(2) available funding for operating cost subsidies, including any rental assistance;

(3) projected funding for supportive services for the targeted units upon their occupancy, subject to annual appropriation of funds;

(4) the eligibility requirements for applicants;

(5) relevant program guidelines;

(6) selection criteria and the selection process; and

(7) the conditions to be met by applicants and selected respondents.

Each agency with authority for approving allocations of funds shall review proposed funding actions with the Interagency Subcommittee. Final funding decisions shall be made by the responsible agency in accordance with applicable law.

Section 90. The Illinois Private Activity Bond Allocation Act is amended by adding Section 7.5 as follows:

(30 ILCS 345/7.5 new)

Sec. 7.5. Bond issuer; annual report. The issuer of bonds utilizing bond volume cap from the Local Government Pool and the State Agency Pool shall file an annual report with the Governor and the General Assembly. The annual report from each issuer must include, but is not limited to, the following

information:

(1) For multifamily rental units:

(A) the total number of developments;

(B) the total number of units, by income levels served;

(C) the total number of units targeted to each particular underserved population addressed in the Annual Comprehensive Housing Plan; and

(D) any outreach efforts undertaken to serve the targeted units.

(2) For single family homeownership units:

(A) the total number of loans and households who achieved homeownership with issuer bond proceeds;

(B) the amounts of individual loans generated by the bond proceeds;

(C) the actual and effective interest rates offered to borrowers;

(D) the total number of assisted homeowners identified as an underserved population addressed in the Annual Comprehensive Housing Plan, when available;

(E) the number of first-time homebuyers; and

(F) the number of assisted homeowners who received any homeownership counseling.

(3) For all housing units:

(A) the percentage of bond proceeds used in conjunction with the projects and loans;

(B) the total cost of issuance for the bonds issued;

(C) the amount of bond proceeds, if any, used to refund prior bonds; and

(D) the total amount of unused proceeds, if any, at the time of the report.

The Governor and the General Assembly shall utilize information readily available through existing reporting requirements to report on the State Agency Pool.

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 foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Martinez, **Senate Bill No. 2290**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 30; Nays 23; Present 1.

The following voted in the affirmative:

Clayborne	Geo-Karis	Maloney	Silverstein
Collins	Haine	Martinez	Sullivan
Crotty	Halvorson	Munoz	Trotter
Cullerton	Hendon	Raoul	Viverito
del Valle	Hunter	Ronen	Wilhelmi
DeLeo	Jacobs	Sandoval	Mr. President
Demuzio	Lightford	Schoenberg	
Forby	Link	Shadid	

The following voted in the negative:

Althoff	Dillard	Pankau	Roskam
Axley	Garrett	Peterson	Rutherford
Bomke	Jones, J.	Petka	Sieben
Burzynski	Jones, W.	Radogno	Syverson
Cronin	Lauzen	Righter	Watson

Dahl Millner Risinger

The following voted present:

Harmon

This roll call verified.

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 therein.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 2302** 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 TO SENATE BILL 2302

AMENDMENT NO. 1. Amend Senate Bill 2302 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Cigarette Fire Safety Standard Act.

Section 5. Definitions. As used in this Act:

"Agent" means any person licensed by the Department of Revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

"Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Manufacturer" means:

(1) any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(3) any entity that becomes a successor of an entity described in items (1) or (2) of this definition.

"Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

"Retail dealer" means any person, other than a wholesale dealer, engaged in selling cigarettes or tobacco products.

"Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money are considered sales.

"Sell" means to sell, or to offer or agree to do the same.

"Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in subsection (e) of Section 15 of this Act for all test trials used to certify cigarettes in accordance with this Act.

"Wholesale dealer" means any person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Section 10. General requirements.

(a) On and after the effective date of this Act, no cigarettes shall be sold or offered for sale in this State unless:

(1) the cigarettes have been tested in accordance with the test method prescribed in Section 15 of this Act;

(2) the cigarettes meet the performance standard specified in Section 20 of this Act; and

(3) a written certification has been filed by the manufacturer with the Office of the State Fire Marshal and the Office of Attorney General in accordance with Section 30 of this Act.

(b) Nothing in this Act prohibits wholesale dealers or retail dealers from selling their inventory of cigarettes existing on the effective date of this Act, provided that the wholesale dealer or retail dealer establishes that tax stamps were affixed to the cigarettes pursuant to Section 3 of the Cigarette Tax Act before the effective date of this Act, and provided further that the wholesale dealer or retail dealer establishes that the inventory was purchased before the effective date of this Act in comparable quantity to the amount of inventory purchased during the same period of the prior year.

(c) Nothing in this Act shall be construed to prohibit any person or entity from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with Section 30 of this Act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

Section 15. Test method.

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes". The Office of the State Fire Marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in Section 20 of this Act.

(b) Testing shall be conducted on 10 layers of filter paper.

(c) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by Section 20 of this Act shall only be applied to a complete test trial.

(e) Laboratories conducting testing in accordance with this Section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19 pursuant to Section 20 of this Act.

(f) This Section does not require additional testing if cigarettes are tested consistent with this Act for any other purpose.

Section 20. Performance standard.

(a) When tested in accordance with Section 15 of this Act, no more than 25% of the cigarettes tested in a test trial shall exhibit full length burns.

(b) Each cigarette listed in a certification submitted in accordance with Section 30 of this Act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subsection (a) of this Section shall have at least 2 nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least 2 bands fully located at least 15 millimeters from the lighting end and either (i) 10 millimeters from the filter end of the tobacco column, or (ii) 10 millimeters from the labeled end of the tobacco column for non-filtered cigarettes.

(c) The manufacturer or manufacturers of a cigarette that the Office of the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in Section 15 of this Act shall propose a test method and performance standard for such cigarette to the Office of the State Fire Marshal. Upon approval of the proposed test method and a determination by the Office of the State Fire Marshal that the performance standard proposed by the manufacturer or manufacturers is equivalent to the performance standard prescribed in subsection (a) of this Section, the manufacturer or manufacturers may employ such test method and performance standard to certify such cigarette in accordance with Section 30 of this Act. If the State Fire Marshal determines that another state has enacted reduced

cigarette ignition propensity standards that include a test method and performance standard, and that are at least as stringent in reducing cigarette ignition propensity as those contained in this Act, and the State Fire Marshal finds that the officials responsible for implementing those requirements have made an independent analysis and approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this subsection (c), then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal demonstrates a reasonable basis why the alternative test should not be accepted under this Act. All other applicable requirements of this Act shall apply to such manufacturer or manufacturers.

(d) This Act shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

Section 25. Test data. To ensure compliance with the performance standard specified in Section 20 of this Act, data from testing conducted by manufacturers to comply with this performance standard shall be kept on file by the manufacturers for a period of 3 years and shall be sent to the Office of the State Fire Marshal upon its request and to the Office of the Attorney General upon its request.

Section 30. Certification.

(a) Each manufacturer shall submit a written certification attesting that:

(1) each cigarette listed in the certification has been tested in accordance with Section 15 of this Act; and

(2) each cigarette listed in the certification meets the performance standard set forth in Section 20 of this Act.

(b) Each cigarette listed in the certification shall be described with the following information:

(1) brand (i.e., the trade name on the package);

(2) style (e.g., light, ultra light);

(3) length in millimeters;

(4) circumference in millimeters;

(5) flavor (e.g., menthol, chocolate) if applicable;

(6) filter or non-filter;

(7) package description (e.g., soft pack, box); and

(8) marking approved in accordance with Section 40 of this Act.

(c) Each cigarette certified under this Section shall be re-certified every 3 years.

Section 35. Notification of certification. Manufacturers certifying cigarettes in accordance with Section 30 of this Act shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the cigarette packaging marking used by the manufacturer in accordance with Section 40 of this Act for each retail dealer to which the wholesale dealers and agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these cigarette packaging markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the Office of the State Fire Marshal to inspect markings of cigarette packaging marked in accordance with Section 40 of this Act.

Section 40. Marking of cigarette packaging.

(a) Cigarettes that have been certified by a manufacturer in accordance with Section 30 of this Act shall be marked to indicate compliance with the requirements of this Act. The marking shall be in 8-point type or larger and consist of:

(1) modification of the product UPC Code to include a visible mark printed at or around the area of the UPC Code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC Code;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this Act.

(b) A manufacturer must use only one marking, and must apply this marking uniformly for all packages including, but not limited to, packs, cartons, and cases and to brands marketed by that

manufacturer.
(c) The Office of the State Fire Marshal must be notified as to the marking that is selected.
(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the Office of the State Fire Marshal for approval. Upon receipt of the request, the Office of the State Fire Marshal shall approve or disapprove the marking offered. A marking in use and approved for the sale of cigarettes in the State of New York shall be deemed approved. Proposed markings shall be deemed approved if the Office of the State Fire Marshal fails to act within 10 business days of receiving a request for approval.
(e) No manufacturer shall modify its approved marking unless the modification has been approved by the Office of the State Fire Marshal in accordance with this Section.

Section 45. Penalties; Cigarette Fire Safety Standard Act Fund.
(a) Any wholesale dealer, agent, or other person or entity who knowingly sells cigarettes wholesale in violation of item (3) of subsection (a) of Section 10 of this Act shall be subject to a civil penalty not to exceed $10,000 for each sale of the cigarettes. Any retail dealer who knowingly sells cigarettes in violation of Section 10 of this Act shall be subject to the following: (i) a civil penalty not to exceed $500 for each sale or offer for sale of cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale does not exceed 1,000 cigarettes; (ii) a civil penalty not to exceed $1,000 for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale exceeds 1,000 cigarettes.
(b) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 30 of this Act shall be subject to a civil penalty not to exceed $10,000 for each false certification.
(c) Upon discovery by the Office of the State Fire Marshal, the Department of Revenue, the Office of the Attorney General, or a law enforcement agency that any person offers, possesses for sale, or has made a sale of cigarettes in violation of Section 10 of this Act, the Office of the State Fire Marshal, the Department of Revenue, the Office of the Attorney General, or the law enforcement agency may seize those cigarettes possessed in violation of this Act.
(d) The Cigarette Fire Safety Standard Act Fund is established as a special fund in the State treasury. The Fund shall consist of all moneys recovered by the Attorney General from the assessment of civil penalties authorized by this Section. The moneys in the Fund shall, in addition to any moneys made available for such purpose, be available, subject to appropriation, to the Office of the State Fire Marshal for the purpose of fire safety and prevention programs.

Section 50. Enforcement. To enforce the provisions of this Act, the Attorney General may bring an action on behalf of the people of this State to enjoin acts in violation of this Act and to recover civil penalties authorized under Section 45 of this Act.

Section 55. Administration. The Office of the State Fire Marshal shall be responsible for administering the provisions of this Act.

Section 60. Applicability. This Act shall cease to be applicable if federal fire safety standards for cigarettes that preempt this Act are enacted and take effect subsequent to the effective date of this Act and the State Fire Marshal so notifies the Secretary of State.

Section 900. The State Finance Act is amended by adding Section 5.663 as follows:
(30 ILCS 105/5.663 new)
Sec. 5.663. The Cigarette Fire Safety Standard Act Fund.

Section 999. Effective date. This Act takes effect January 1, 2008.".

The motion prevailed.
And the amendment was adopted and ordered printed.
Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2302

AMENDMENT NO. 2. Amend Senate Bill 2302, AS AMENDED, with reference to page and

line numbers of Senate Amendment No. 1, on page 2, line 7, after "other than a", by inserting "manufacturer or"; and

on page 2, line 32, after "sale", by inserting "to any person"; and

on page 5, line 20, by replacing "at least as stringent" with "the same"; and

on page 7, line 13, after "Fire Marshal", by inserting ", Department of Revenue, and the Office of the Attorney General"; and

on page 8, line 18, after "Any", by inserting "manufacturer,".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 2302**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 48; Nays 6.

The following voted in the affirmative:

Althoff	Forby	Pankau	Shadid
Axley	Garrett	Peterson	Sieben
Bomke	Geo-Karis	Petka	Silverstein
Burzynski	Haine	Radogno	Sullivan
Clayborne	Harmon	Raoul	Syverson
Collins	Hendon	Rauschenberger	Trotter
Cronin	Hunter	Righter	Viverito
Cullerton	Lightford	Risinger	Wilhelmi
Dahl	Link	Ronen	Mr. President
del Valle	Maloney	Roskam	
DeLeo	Meeks	Rutherford	
Demuzio	Millner	Sandoval	
Dillard	Munoz	Schoenberg	

The following voted in the negative:

Jacobs	Jones, W.	Luechtefeld
Jones, J.	Lauzen	Watson

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 therein.

On motion of Senator Burzynski, **Senate Bill No. 2303**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Jacobs, **Senate Bill No. 2325** was recalled from the order of third reading to the order of second reading.

Senator Rutherford offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2325

AMENDMENT NO. 1. Amend Senate Bill 2325, on page 2, after the period, by inserting "The Department of Financial and Professional Regulation shall adopt rules to implement this subsection (b).".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Jacobs, **Senate Bill No. 2325**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein

Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Garrett, **Senate Bill No. 2326**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Martinez, **Senate Bill No. 2328** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2328

AMENDMENT NO. 1. Amend Senate Bill 2328 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-2 as follows:

(305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV but who fail to qualify thereunder on the basis of need, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:

(a) All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:

(i) their income, as determined by the Illinois Department in accordance with any federal requirements, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

(ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).

(b) All persons who would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.

(b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

(c) The Illinois Department may conduct a demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such a demonstration. Such demonstration may establish resource standards that are not more restrictive than those established under Article IV of this Code.

6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum extent permitted under Title XIX of the Federal Social Security Act.

7. Persons who are under 21 years of age and would qualify as disabled as defined under the Federal Supplemental Security Income Program, provided medical service for such persons would be eligible for Federal Financial Participation, and provided the Illinois Department determines that:

(a) the person requires a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, as determined by a physician licensed to practice medicine in all its branches;

(b) it is appropriate to provide such care outside of an institution, as determined

by a physician licensed to practice medicine in all its branches;

(c) the estimated amount which would be expended for care outside the institution is not greater than the estimated amount which would be expended in an institution.

8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic maintenance assistance under Article VI of this Code due to employment earnings. The plan for coverage for this class of persons shall:

(a) extend the medical assistance coverage for up to 12 months following termination of basic maintenance assistance; and

(b) offer persons who have initially received 6 months of the coverage provided in paragraph (a) above, the option of receiving an additional 6 months of coverage, subject to the following:

(i) such coverage shall be pursuant to provisions of the federal Social Security Act;

(ii) such coverage shall include all services covered while the person was eligible for basic maintenance assistance;

(iii) no premium shall be charged for such coverage; and

(iv) such coverage shall be suspended in the event of a person's failure without good cause to file in a timely fashion reports required for this coverage under the Social Security Act and coverage shall be reinstated upon the filing of such reports if the person remains otherwise eligible.

9. Persons with acquired immunodeficiency syndrome (AIDS) or with AIDS-related conditions with respect to whom there has been a determination that but for home or community-based services such individuals would require the level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

10. Participants in the long-term care insurance partnership program established under the Partnership for Long-Term Care Act who meet the qualifications for protection of resources described in Section 25 of that Act.

11. Persons with disabilities who are employed and eligible for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as provided by the Illinois Department by rule.

12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:

(1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act as administered by the Illinois Department of Public Health; and

(2) persons whose screenings under the above program were funded in whole or in part by funds appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

"Medical assistance" under this paragraph 12 shall be identical to the benefits provided under the State's approved plan under Title XIX of the Social Security Act. The Department must request federal approval of the coverage under this paragraph 12 within 30 days after the effective date of this amendatory Act of the 92nd General Assembly.

13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.

14. Persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have a pending application for asylum with the federal Department of Homeland Security and are represented by counsel in regard to that application, or (ii) are receiving services through a federally funded torture treatment center, or (iii) can demonstrate, in accordance with rules adopted by the Department of Healthcare and Family Services, that they are seeking treatment for trauma resulting from torture in their countries of origin or previous countries of residence. Medical coverage under this paragraph 14 shall be provided for up to 24

continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14.

The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 7 as soon as possible after July 1, 1984.

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than $2,000, and the amount of assets of a married couple to be disregarded shall not be less than $3,000.

To the extent permitted under federal law, any person found guilty of a second violation of Article VIIIA shall be ineligible for medical assistance under this Article, as provided in Section 8A-8.

The eligibility of any person for medical assistance under this Article shall not be affected by the receipt by the person of donations or benefits from fundraisers held for the person in cases of serious illness, as long as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.
(Source: P.A. 93-20, eff. 6-20-03; 94-629, eff. 1-1-06.)

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 foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Martinez, **Senate Bill No. 2328**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 38; Nays 12; Present 2.

The following voted in the affirmative:

Althoff	Geo-Karis	Maloney	Schoenberg
Clayborne	Haine	Meeks	Sieben
Collins	Halvorson	Millner	Silverstein
Crotty	Harmon	Munoz	Sullivan
Cullerton	Hendon	Pankau	Trotter
del Valle	Hunter	Peterson	Viverito
DeLeo	Jacobs	Raoul	Wilhelmi
Dillard	Jones, W.	Risinger	Mr. President
Forby	Lightford	Ronen	
Garrett	Luechtefeld	Sandoval	

The following voted in the negative:

Bomke	Jones, J.	Righter
Burzynski	Lauzen	Rutherford
Cronin	Petka	Syverson
Dahl	Rauschenberger	Watson

The following voted present:

Axley
Roskam

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 therein.

Senator Martinez asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **Senate Bill No. 2328.**

SENATE BILL RECALLED

On motion of Senator Jacobs, **Senate Bill No. 2330** 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. 5 TO SENATE BILL 2330

AMENDMENT NO. 5. Amend Senate Bill 2330, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Blind Vendors Act.

Section 5. Definitions.

As used in this Act:

"Assistant Director" means the individual primarily responsible for the State's management and operation of the Business Enterprise Program for the Blind.

"Blind licensee" means a blind person licensed by the Department to operate a vending facility on State, federal, or other property.

"Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select.

"Cafeteria" means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided.

"Committee" means the Illinois Committee of Blind Vendors, an independent representative body for blind vendors established by the federal Randolph-Sheppard Act.

"Department" means the Department of Human Services.

"Director" means the Bureau Director of the Bureau for the Blind in the Department of Human Services.

"Federal property" means any building, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the U.S. Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States.

"License" means a written instrument issued by the Department to a blind person, authorizing such person to operate a vending facility on State, federal, or other property.

"Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding any set-aside charges required to be paid by the blind vendors).

"Normal working hours" means an 8 hour work period between the approximate hours of 8:00 a.m., to 6:00 p.m., Monday through Friday.

"Other property" means property that is not State or federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any State or federal property.

"Secretary" means the Secretary of Human Services.

"Set-aside funds" means funds that accrue to the Department from an assessment against the net proceeds of each vending facility in the State's vending facility program and any income from vending machines on State or federal property that accrues to the Department.

"State agency" means any department, board, commission, or agency created by the Constitution or public Act, whether in the executive, legislative or judicial branch.

"State property" means all real property, or part thereof, owned, leased, rented, or otherwise controlled or occupied by any agency, department, or other governing body of this State. For purposes of this Act, "State property" does not include property owned or controlled by a unit of local government or school district.

"Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment that may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of changes for any lottery authorized by State law and conducted by a State agency within the State.

"Vending machine", for the purpose of assigning vending machine income under this Act, means a coin or currency operated machine which dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending machine income" means receipts (other than those of a blind vendor) from vending machine operations on State or federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States or the State of Illinois, or commissions paid (other than to a blind vendor) by a commercial vending concern that operates, services, and maintains vending machines on State or federal property for, or with the approval of, a department, agency, or instrumentality of the United States or the State of Illinois.

"Vendor" means a blind licensee who is operating a vending facility on State, federal, or other property.

Section 10. Business Enterprise Program for the Blind.

(a) The Business Enterprise Program for the Blind is created for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. In order to achieve these goals blind persons licensed under this Act shall be authorized to operate vending facilities on any property within this State as provided by this Act.

It is the intent of the General Assembly that the Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal regulations for its administration set forth in Part 395 of title 34 of the Code of Federal Regulations, shall serve as the minimum standards for the operation of the Business Enterprise Program for the Blind.

(b) The Secretary, through the Director, shall continue, maintain, and promote the Business Enterprise Program for the Blind. Some or all of the functions of the program may be provided by the Department of Human Services. The Business Enterprise Program for the Blind must provide that:

(1) priority is given to blind vendors in the operation of vending facilities on State property;

(2) vending machine income from all vending machines on State property is assigned as provided for by Section 30 of this Act;

(3) no State agency may impose any commission, service charge, rent, or utility charge on a licensed blind vendor who is operating a vending facility on State property;

(4) sales made at a blind vendor's vending facility are exempt from all occupation and use taxes; and

(5) State agencies and units of local government may not allow competition with a blind vendor. For purposes of this item (5), "competition" includes, but is not limited to, vending machines, coffee services, or other commercial mechanisms in the same building as a licensed blind vendor. "Competition" does not include bake sales or other non-commercial fund raising activities.

(c) With respect to vending facilities on federal property within this State, priority shall be given as provided in the federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f, including any amendments

thereto. This Act, as it applies to federal property, is intended to conform to the federal Act, and is to be of no force or effect if, and to the extent that, any provision of this Act or any regulation adopted under this Act is in conflict with the federal Act. Nothing in this subsection shall be construed to impose limitations on the operation of vending facilities on State property, or property other than federal property, or to allow only those activities specifically enumerated in the Randolph-Sheppard Act.

(d) On all other property within this State, whether owned or controlled privately or by a unit of local government or school district, the Department directly or by delegation shall take all feasible steps to encourage and establish vending by blind persons licensed under this Act. The Department may enter into appropriate agreements with the entities or persons owning or controlling the property. All such agreements shall be in writing and shall be in conformity with this Act.

(e) The Assistant Director shall actively pursue all commissions from vending facilities not operated by blind vendors as provided in Section 30 of this Act, and shall propose new placements of vending facilities on State property where a facility is not yet in place.

(f) Partnerships and teaming arrangements between blind vendors and private industry, including franchise operations, shall be fostered and encouraged by the Department.

(g) Notwithstanding any provision to the contrary, this Act does not apply to the "State Fairgrounds" as defined in the State Fair Act, any Department of Natural Resources subcontract, or the World Shooting and Recreation Complex.

Section 15. Vending facilities on State property.

(a) In order to ensure that priority is given to blind vendors in the operation of vending facilities on State property as provided in Section 10, the Director, directly or by delegation to the Assistant Director, and the Committee shall jointly develop regulations to ensure the following:

(1) That priority is given to blind persons licensed under this Act or under its predecessor Act (the Blind Persons Operating Vending Facilities Act 20 ILCS 2420/), including the assignment of vending machine income as provided in this Act.

(2) That one or more vending facilities shall be established on all State property to the extent feasible. Where a larger vending facility is determined by the Director and the Committee to be infeasible, every effort shall be made to place vending machines on the property whenever possible. The Director and the Committee shall take into account the following criteria when determining whether establishment of a vending facility is feasible:

(A) the number of State employees, visitors, and other potential facility customers on the property in a given period;

(B) the size, in square feet, of the area owned, leased, occupied, or otherwise controlled by the State;

(C) the duration the property is expected to be leased or occupied by the State;

(D) whether establishment of a vending facility would adversely affect the interests of the State; and

(E) the likelihood that the vending facility would produce an adequate net income for a blind vendor as determined by the average income of all blind vendors in the State.

(b) Any determination by the Director, or by the agency or department controlling the property, that the placement or operation of a vending facility is not feasible, or that the placement or operation would adversely affect the interests of the State shall be in writing and shall be transmitted to the Committee for review and ratification or rejection.

(c) The Director, through the Assistant Director, subject to the regulations developed and adopted pursuant to subsection (a) of this Section and the requirements of federal law and regulations, is authorized to select a location for a vending facility and the type of facility to be provided.

(d) Upon the development of plans by any State agency to occupy, acquire, renovate, or relocate a property, the State agency shall notify the Director, who shall determine whether the plans include a satisfactory site or sites for one or more vending facilities.

(e) After January 1, 2006, no State agency shall undertake to acquire by ownership, rent or lease, or to otherwise occupy, in whole or in part, any property unless, after consultation with the head of the State agency, it is determined by the Director in accordance with regulations developed pursuant to subsection (a) either: (1) that the property includes a satisfactory site or sites for the location and operation of a vending facility by a blind person; or (2) that, if a building is to be constructed, substantially altered, or renovated, or, in the case of a building that is already occupied by the State agency, is to be substantially altered or renovated for use by the State agency, the design for the construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each State agency permitting the

operation of vending facilities on State property shall ensure strict adherence to the priority established for the operation of vending facilities by blind persons pursuant to this Act.

(f) The provisions of subsection (e) shall not apply when the Director, in consultation with the Committee, determines that the number of people using the location is or will be insufficient to support a vending facility.

Section 20. Other vending facilities. The governing body of any unit of local government or school board owning property or persons or entities owning or controlling private property are authorized and encouraged to construct or install on the property, or permit the construction or installation of, vending facilities for operation by blind persons licensed under this Act. In constructing or installing these vending facilities, the amount of space allotted for this purpose should be sufficient to adequately serve the number of persons at the site and to provide the kind of services to be rendered.

Section 25. Set-aside funds; Blind Vendors Trust Fund.

(a) The Department may provide, by regulation, for set-asides similar to those provided in Section 107d-3 of the Randolph-Sheppard Act. If any funds are set aside, or caused to be set aside, from the net proceeds of the operation of vending facilities by blind vendors, the funds shall be set aside only to the extent necessary in a percentage amount not to exceed that determined jointly by the Director and the Committee and published in State regulation, and that these funds may be used only for the following purposes: (1) maintenance and replacement of equipment; (2) purchase of new equipment; (3) construction of new vending facilities; (4) funding the functions of the Committee, including legal and other professional services; and (5) retirement or pension funds, health insurance, paid sick leave, and vacation time for blind licensees, so long as these benefits are approved by a majority vote of all blind vendors that occurs after the Department provides these vendors with information on all matters relevant to these purposes.

(b) No set-aside funds shall be collected from a blind vendor when the monthly net proceeds of that vendor are less than $1,000. This amount may be adjusted annually by the Director and the Committee to reflect changes in the cost of living.

(c) The Department shall establish, with full participation by the Committee, the Blind Vendors Trust Fund as a separate account managed by the Department for the State's blind vendors.

(d) Set-aside funds collected from the operation of all vending facilities administered by the Business Enterprise Program for the Blind shall be placed in the Blind Vendors Trust Fund which shall include set-aside funds from facilities on federal property. The Fund must provide separately identified sub-accounts for moneys from (i) federal, and (ii) State and other facilities, as well as vending machine income generated pursuant to Section 30 of this Act. These funds shall be available until expended and shall not revert to the General Revenue Fund or to any other State account.

(e) It is the intent of the General Assembly that the expenditure of set-aside funds authorized by this Section shall be supplemental to any current appropriation or other moneys made available for these purposes and shall not constitute an offset or diminution of any previously existing appropriation or other funding source.

(f) An amount equal to 10% of the wages paid by a blind vendor to any employee who is blind or otherwise disabled shall be deducted from any set-aside charge paid by the vendor each month, in order to encourage vendors to employ blind and disabled workers and to set an example for industry and government. No deduction shall be made for any employee paid less than the State or federal minimum wage.

Section 30. Vending machine income and compliance.

(a) After January 1, 2006, all vending machine income from vending machines on State property shall accrue to (1) the blind vendor operating the vending facilities on the property, or (2) in the event there is no blind vendor operating a facility on the property, to the Blind Vendors Trust Fund for use exclusively as set forth in subsection (a) of Section 25 of this Act.

(b) The Secretary, directly or by delegation of authority, shall ensure compliance with this Section and Section 15 of this Act with respect to buildings, installations, facilities, roadside rest stops, and any other State property, and shall be responsible for the collection of, and accounting for, all vending machine income on this property. The Secretary shall enforce these provisions through litigation, arbitration, or any other legal means available to the State, and each State agency in control of this property shall be subject to the enforcement. State agencies or departments failing to comply with an order of the Department may be held in contempt in any court of general jurisdiction.

(c) Any limitation on the placement or operation of a vending machine by a State agency based on a determination that such placement or operation would adversely affect the interests of the State must be explained in writing to the Secretary. The Secretary shall promptly determine whether the limitation is justified. If the Secretary determines that the limitation is not justified, the State agency seeking the limitation shall immediately remove the limitation.

(d) The amount of vending machine income accruing from vending machines on State property that may be used for the functions of the Committee shall be determined annually by a two-thirds vote of the Committee, except that no more than 25% of the annual vending machine income may be used by the Committee for this purpose, based upon the income accruing to the Blind Vendors Trust Fund in the preceding year. The Committee may establish its budget and expend funds through contract or otherwise without the approval of the Department.

(e) With respect to vending machines located on any facility or property controlled or operated by the Division of Developmental Disabilities or the Division of Mental Health within the Department of Human Services:

(1) Any written contract in place as of the effective date of this Act between either Division and the Business Enterprise for the Blind shall be maintained and fully adhered to, including any moneys paid to the individual facilities.

(2) With respect to written contracts in place as of the effective date of this Act between either Division and a private vendor, bottler, or vending machine supplier, the Business Enterprise Program for the Blind has the right to provide the services at those facilities upon completion of the existing contract or upon material breach of that contract.

(3) With respect to existing vending machines with no written contract or agreement in place as of the effective date of this Act between either Division and a private vendor, bottler, or vending machine supplier, the Business Enterprise Program for the Blind has the right to provide the vending services as provided in this Act, provided that the blind vendor must provide 10% of net sales from those machines to the individual facilities.

Section 40. Licenses.

(a) Licenses shall be issued only to blind persons who are qualified to operate vending facilities. The continuing eligibility of a vendor as a blind person shall be reviewed biennially for partially sighted individuals or whenever the Director has information indicating the vendor is no longer blind as defined under this Act.

(b) Following agreement by the Director, the Assistant Director, and the Committee, the Secretary shall adopt and publish regulations providing for (1) the requirements for licensure as a blind vendor; (2) a curriculum for training, inservice training, and upward mobility training for blind vendors; and (3) a regular schedule for offering the training, classes to be offered at least once per year.

(c) Each license issued pursuant to this Section shall be for an indefinite period. The license of a blind vendor may be terminated or suspended for good cause, but only after affording the licensee an opportunity for a full and fair hearing in accordance with the provisions of this Act.

Section 45. Committee of Blind Vendors.

(a) The Director, through the Assistant Director, shall provide for the biennial election of the Committee, which shall be fully representative of all blind licensees in the State. There shall be no fewer than one committee member for each 15 licensed blind vendors in the State.

(b) The Committee is empowered to hire staff; contract for consultants including, but not limited to, legal counsel; set agendas and call meetings; create a constitution and bylaws, subcommittees, and budgets; and do any other thing a not for profit organization may do. At the discretion of the Committee major issues may be referred for initial consideration to a subcommittee, or to all blind vendors in order to ascertain their views. The Committee is not a State agency, board, or commission and is not subject to State ethics, sunshine, or procurement laws.

(c) The Secretary shall ensure that the Committee jointly participates with the State in the development and implementation of all policies, plans, Program development, and major administrative and management decisions affecting the Business Enterprise Program for the Blind. The Director, through the Assistant Director, shall provide to the Committee all relevant financial information and data, including quarterly and annual financial reports, on the operation of the vending facility program in order that the Committee may fully participate in budget development and formulation, the establishment of set-aside levels, and other program requirements. A copy of all completed audits, reports, and investigations affecting the Business Enterprise Program for the Blind shall be distributed to

the Committee in a timely manner. Any implementation of changes in administrative policy or program development that are within the discretion of the Department shall occur only after Committee review.

Section 50. Hearings; arbitration.

(a) Any blind vendor dissatisfied with any act or omission arising from the operation or administration of the vending facility program may submit to the Assistant Director a request for a full evidentiary hearing. This hearing shall be provided in a timely manner by the Department. Damages, including compensatory damages, attorney's fees, and expenses, must be paid to any operator who prevails in the full evidentiary hearing; however, payment of damages may only be paid from the general funds of the State treasury and not from any program funds, the Blind Vendors Trust Fund, or federal rehabilitation funds. If the blind vendor is dissatisfied with any action taken or decision rendered as a result of the hearing, that vendor may file a complaint for arbitration with the Secretary.

(b) If the Secretary determines that any State agency has failed to comply with the requirements of this Act, the Secretary must establish a panel to arbitrate the dispute and the decision of the panel shall be final and binding on the parties. Any arbitration panel convened by the Secretary shall be composed of 3 members, appointed as follows:

(1) one individual appointed by the Secretary;

(2) one individual appointed by the State agency determined by the Secretary to be in noncompliance with the Act; and

(3) one individual, who shall serve as chairman, jointly designated by the members appointed under items (1) and (2); provided that, if within 30 days following the Secretary's determination of noncompliance either party fails to appoint a panel member, or if the parties are unable to agree on the appointment of the chairman, the Secretary shall select the final panel member or may designated a hearing officer of the Department who shall preside.

(c) The Assistant Director may issue a letter of reprimand to a blind vendor who violates program regulations or policy. Depending upon the seriousness of the alleged violation, the letter of reprimand may indicate the intention to suspend or terminate the license of the vendor. All reprimand letters shall be sent in a medium accessible by the vendor, and shall be sent by certified mail, return receipt requested. The Assistant Director must make every reasonable effort to assist the subject vendor to correct the problem for which the vendor is reprimanded. No process to suspend or terminate a license shall be initiated before the vendor is accorded the opportunity for a full evidentiary hearing as provided under subsection (a). A vendor may be summarily removed from a facility only in an emergency.

Section 60. General provisions.

(a) Blind vendors operating vending facilities are subject to the applicable license or permit requirements of the county or city in which the facility is located necessary for the conduct of their business; however, any such license or permit shall be issued free of charge to vendors licensed by the Department, and shall not be unreasonably withheld.

(b) Vendors licensed pursuant to this Act are authorized to keep guide animals with them while operating vending facilities.

(c) The Director, Assistant Director, and the Committee shall cooperate in the development of regulations to be promulgated by the Department regarding life standards for vending facility equipment. Such regulations shall include, but are not limited to, the life expectancy of equipment; time periods within which equipment should be replaced; exceptions to the replacement time periods for equipment with no service problem history, and replacement schedules for equipment subject to excessive failures not the fault of the vendor.

(d) The Secretary, through the Director, shall assign adequate personnel to carry out duties related to the administration and management of this Act. In selecting personnel to fill any program position under this subsection, the Secretary shall ensure that the Committee has full advance opportunity to review the selections, to submit comments thereon, and to assess the adequacy of staffing levels for the program.

(e) The Assistant Director shall provide each vendor access to: all financial information, his or her performance ratings, and all other individual personnel documents and data maintained by the Department. This includes providing each vendor a written copy of all rules and policies adopted pursuant to the Act. Upon request, the information shall be furnished in the medium most accessible by the vendor.

(f) The surviving spouse of a vendor who dies during the operation of a vending facility under this Act may continue to operate the facility for a period of 6 months following the death of the vendor, provided that the surviving spouse is qualified by experience or training to manage the facility.

Section 65. Program regulations.

(a) The Secretary shall promulgate and adopt necessary regulations, and do all things necessary and proper to carry out this Act. The Secretary by delegation shall review these regulations with the Committee at least every 3 years.

(b) The regulations shall include, but are not limited to, the following: (1) uniform procedures for vendor licensing and termination; (2) criteria and standards for selecting vendors and matching them to facilities to ensure that the most qualified person is selected; (3) equipment life standards and service standards for the inventory, repair, and purchase of equipment; (4) minimum requirements for the establishment of a vending facility; (5) standards for training, in-service training, and upward mobility; and (6) policies and procedures for the collection, deposit, reimbursement, and use of all program income, including vending machine income.

Section 70. Property Survey and Report.

(a) The Department shall survey and report on State property and vending facilities not later than December 31, 2006. The report shall contain the following information:

(1) A list of all State property and all federal buildings or other property within the State that does or reasonably could accommodate a vending facility as provided for in this Act or as provided for in the federal Randolph-Sheppard Act.

(2) For the buildings or locations that have vending facilities or vending machines in place, an indication of the facilities operated by licensed blind vendors under the Business Enterprise Program for the Blind and an indication of the facilities operated by private entities.

(3) For the vending facilities or vending machines operated by private entities, an indication of the facilities from which commissions for the Business Enterprise Program for the Blind have been or are being collected.

(4) For the buildings or other property that do not have vending facilities in place, an indication of the locations where a vending facility could appropriately be placed, or the reasons why a vending facility is not feasible in the building or property.

(b) The Department shall obtain all available information and conduct a survey, before June 30 of every odd numbered year after the effective date of this Act. This survey shall identify but not be limited to the following information:

(1) The number and identity of the buildings owned, leased, acquired, or occupied by the State.

(2) The number and identity of the State buildings where vending facilities or vending machines are located.

(3) The number of employees located in or visiting these buildings during normal working hours.

(4) The usable interior square footage of the building; and

(5) Any other information the Department may determine to be useful in expanding the Business Enterprise Program for the Blind to the maximum extent feasible consist with the purposes of this Act.

(c) All State agencies controlling State property or parts thereof where vending machines or vending facilities are located must cooperate with the Department by providing information on the vending machines or facilities at those locations. This information shall include, but is not limited to, the terms of contracts for vending, including financial terms, and the disbursement practices for vending machine income. The Department shall incorporate this information in its reports and updates.

(d) The Department shall use the reports and updates mandated by this Section to develop greater opportunities for the placement of blind vendors, to increase vending machine income to the program, and to aid in establishing vending machines and facilities on State property.

(e) The reports and surveys prepared pursuant to this Section shall be provided to the Committee and to the appropriate committees of the General Assembly.

Section 85. Home rule. A home rule unit may not impose or collect any occupation or use tax with respect to sales made at a blind vendor's vending facility. This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(20 ILCS 2420/Act rep.)

Section 90. The Blind Persons Operating Vending Facilities Act is repealed.

Section 93. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or

purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if

the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) 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, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning on and after the effective date of this amendatory Act of the 94th General assembly, personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind Vendors Act. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04; 93-1033, eff. 9-3-04; revised 10-21-04.)

Section 94. The Service Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit

service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and

replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Semen used for artificial insemination of livestock for direct agricultural production.

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods

common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) 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, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning on and after the effective date of this amendatory Act of the 94th General assembly, personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind Vendors Act. This paragraph is exempt from the provisions of Section 3-75.

(Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484,

eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04.)

Section 95. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is

imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) 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 non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(14) Semen used for artificial insemination of livestock for direct agricultural production.

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(17) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(19) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

(21) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to

prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning on and after the effective date of this amendatory Act of the 94th General assembly, personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind Vendors Act. This paragraph is exempt from the provisions of Section 3-55.

(Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04.)

Section 96. Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or

hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and

equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(22) Fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is

determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) 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, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(34) Beginning on and after the effective date of this amendatory Act of the 94th General assembly, personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind Vendors Act. This paragraph is exempt from the provisions of Section 2-70.

(Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff. 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Jacobs offered the following amendment and moved its adoption:

AMENDMENT NO. 6 TO SENATE BILL 2330

AMENDMENT NO. _6_. Amend Senate Bill 2330, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 5, on page 12, line 5, after "contract", by inserting "if the Program matches or exceeds the existing financial terms of the completed or breached contract".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 5 and 6 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Jacobs, **Senate Bill No. 2330**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

Senators Burzynski, Righter and Roskam had an inquiry of the Chair as to whether Senate Bill 2330 preempts home rule and the number of votes required for passage.

The Chair ruled Senate Bill 2330 does not constrain a home rule unit's authority to exercise concurrently with the State any of the functions of a home rule unit, including certain taxing authority. Pursuant to Article VII, Section 6 of the Illinois Constitution, it will therefore require thirty or more votes for Senate passage.

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

Yeas 45; Nays 2; Present 5.

The following voted in the affirmative:

Bomke	Halvorson	Munoz	Sieben
Collins	Harmon	Pankau	Silverstein
Cronin	Hendon	Peterson	Sullivan
Crotty	Hunter	Petka	Syverson
Cullerton	Jones, J.	Radogno	Trotter
Dahl	Lightford	Raoul	Viverito
del Valle	Link	Risinger	Watson
DeLeo	Luechtefeld	Ronen	Wilhelmi
Demuzio	Maloney	Rutherford	Mr. President
Forby	Martinez	Sandoval	
Geo-Karis	Meeks	Schoenberg	
Haine	Millner	Shadid	

The following voted in the negative:

Althoff
Righter

The following voted present:

Axley	Dillard	Roskam
Burzynski	Lauzen	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Jacobs asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 2330**.

SENATE BILL RECALLED

On motion of Senator del Valle, **Senate Bill No. 2339** 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. 3 TO SENATE BILL 2339

AMENDMENT NO. 3. Amend Senate Bill 2339, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, by replacing lines 23 through 33 of page 4, all of page 5, and lines 1 through 3 of page 6 with the following:

"(820 ILCS 105/12) (from Ch. 48, par. 1012)

Sec. 12. (a) If any employee is paid by his employer less than the wage to which he is entitled under the provisions of this Act, the employee may recover in a civil action the amount of any such underpayments together with costs and such reasonable attorney's fees as may be allowed by the Court, and damages of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. Any ~~any~~ agreement between the employee ~~him~~ and the ~~his~~ employer to work for less than such wage is no defense to such action. At the request of the employee or on motion of the Director of Labor, the Department of Labor may make an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs incurred in collecting such claim. Every such action shall be brought within 3 years from the date of the underpayment. Such employer shall be liable to the Department of Labor for 20% of the total employer's underpayment and shall be additionally liable to the employee for ~~punitive~~ damages in the amount of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. Such employer shall be additionally liable to the Department of Labor for up to 20% of the total employer's underpayment where the employer's conduct is proven by a preponderance of the evidence to be willful, repeated, or with reckless disregard of this Act or any rule adopted under this Act. These penalties and damages ~~The Director may promulgate rules for the collection of these penalties. The amount of a penalty may be determined, and the penalty may be assessed, through an administrative hearing. The penalty~~ may be recovered in a civil action brought by the Director of Labor in any circuit court. ~~The penalty shall be imposed in cases in which an employer's conduct is proven by a preponderance of the evidence to be willful.~~ In any such action, the Director of Labor shall be represented by the Attorney General.

(b) The Director is authorized to supervise the payment of the unpaid minimum wages and the unpaid overtime compensation owing to any employee or employees under Sections 4 and 4a of this Act and may bring any legal action necessary to recover the amount of the unpaid minimum wages and unpaid overtime compensation and an equal additional amount as ~~punitive~~ damages, and the employer shall be required to pay the costs incurred in collecting such claim. Such ~~and the~~ employer shall be additionally liable to the Department of Labor for up to 20% of the total employer's underpayment where the employer's conduct is proven by a preponderance of the evidence to be willful, repeated, or with reckless disregard of this Act or any rule adopted under this Act. ~~be required to pay the costs.~~ The action shall be brought within 5 years from the date of the failure to pay the wages or compensation. Any sums thus recovered by the Director on behalf of an employee pursuant to this subsection shall be paid to the employee or employees affected. Any sums which, more than one year after being thus recovered, the Director is unable to pay to an employee shall be deposited into the General Revenue Fund.

(Source: P.A. 92-392, eff. 1-1-02.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator del Valle, **Senate Bill No. 2339**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Burzynski	Harmon	Pankau	Silverstein
Clayborne	Hendon	Peterson	Sullivan
Collins	Hunter	Petka	Syverson
Cronin	Jacobs	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Demuzio	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

On motion of Senator Collins, **Senate Bill No. 2349**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Raoul, **Senate Bill No. 2368** was recalled from the order of third reading to the order of second reading.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2368

AMENDMENT NO. 1. Amend Senate Bill 2368 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Racial Profiling Prevention and Data Oversight Act.

Section 5. Legislative purpose. The purpose of this Act is to identify and address bias-based policing through the monitoring, review, and improvement of the collection of racial profiling information collected under the Illinois Traffic Stop Statistical Study. Through this data collection and review, a more accurate understanding of this problem can be obtained, thus allowing the concerns of the motoring public to be better addressed, resources such as specialized training to be provided, the honest efforts of Illinois' law enforcement professionals to be demonstrated, and the civil rights of all Illinois citizens to be protected.

Section 10. Definitions. As used in this Act:

(a) "Oversight Board" means the Racial Profiling Prevention and Data Oversight Board established under this Act.

(b) "Department" means the Illinois Department of Transportation.

(c) "Traffic Stop Statistical Study Act" means Section 11-212 of the Illinois Vehicle Code.

Section 15. Oversight Board.

(a) There is created within the Department a Racial Profiling Prevention and Data Oversight Board, consisting of 28 members, which shall independently exercise its powers, duties, and responsibilities. The Board shall have the authority to allow additional participation from various groups that the Board deems necessary for additional input.

(b) The membership of the Oversight Board shall consist of:

(1) 4 legislators appointed by the General Assembly leadership equally apportioned between the 2 houses and political parties;

(2) the Attorney General or his or her designee;

(3) the Secretary of the Illinois Department of Transportation or his or her designee;

(4) the Director of the Illinois State Police or his or her designee;

(5) the Superintendent of the Chicago Police Department or his or her designee;

(6) 2 police chiefs representing jurisdictions of varied size and geography appointed by the Illinois Association of Chiefs of Police;

(7) 2 sheriffs representing jurisdictions of varied size and geography appointed by the Illinois Sheriffs' Association;

(8) a representative appointed by Illinois Law Enforcement Training and Standards Board;

(9) a representative appointed by the Illinois Fraternal Order of Police;

(10) a representative appointed by the Cook County State's Attorney Office;

(11) a representative appointed by the Cook County Public Defender;

(12) a representative appointed by the State's Attorneys Appellate Prosecutor;

(13) a representative appointed by the State Appellate Defender;

(14) a representative appointed by the American Civil Liberties Union of Illinois;

(15) a representative of the Mexican American Legal Defense and Education Fund;

(16) a representative of Operation P.U.S.H.;

(17) a representative of the Illinois Conference of NAACP Chapters;

(18) a representative of the Council on American-Islamic Relations;
(19) a representative of the League of United Latin American Citizens; and
(20) the following members appointed by the Governor:
(A) 2 members of the general public; and
(B) 2 members of the Illinois academic community with specific expertise in both statistical analysis and law enforcement.

Section 20. Governing Board. From the membership of the Board, the Governor shall designate the chair and vice chair of the Governing Board, who shall serve at the discretion of the Governor. Members appointed by the Governor shall serve at the discretion of the Governor for a term not to exceed 2 years. All members may be reappointed for an unlimited number of terms. The Governing Board shall meet at least quarterly.

Section 25. Funding. Funding to implement this Act shall be appropriated by the General Assembly to the Department.

Section 30. Compensation. Members of the Governing Board shall serve without compensation. Members may be reimbursed by the Department for reasonable expenses incurred in connection with their duties.

Section 35. Staffing. The Secretary of the Department shall employ or assign, in accordance with the provisions of the Illinois Personnel Code, the administrative, professional, clerical, and other personnel required and may organize his or her staff as may be appropriate to effectuate the purposes, powers, duties, and responsibilities contained in this Act.

Section 40. Powers and duties of the Governing Board. The Governing Board shall have the following powers, duties, and responsibilities:

(a) To comply with the requirements of applicable federal or State laws or regulations and adopt rules consistent with this Act as allowed by the Illinois Administrative Procedure Act (IAPA) through the Joint Committee on Administrative Rules (JCAR).

(b) To coordinate the development, adoption, and implementation of plans and strategies to eliminate racial profiling in Illinois.

(c) To study, recommend, and promulgate data collection requirements regarding additional race/ethnicity categories to be added to the traffic stop statistical study in order to improve data collection among unreported/under-reported minority populations. The board shall study and recommend if required, at a minimum, data collection strategies, categories, and benchmarks for persons of Middle-Eastern origin.

(d) To study stops lasting over 30 minutes and define categorical reasons for the extended stops.

(e) To study, recommend, and report to the Governor, Illinois Secretary of State, and the General Assembly, no later than December 1, 2006, strategies to improve the benchmark data available to identify the race, ethnicity, and geographical residence of the Illinois' driving population beginning on January 1, 2007, with the collection of race/ethnicity data on driver's license new-applicant/renewals. This data shall be available for statistical benchmark comparison purposes only.

(f) To coordinate the development, adoption, and implementation of public awareness programs in the minority communities designed to educate individuals regarding racial profiling and their civil rights.

(g) To promulgate model policies for police agencies that are designed to protect individuals' civil rights related to police traffic enforcement.

(h) To adopt rules as may be necessary to effectuate training regarding data collection and mechanisms to engage those agencies who willfully fail to comply with the requirements of the Traffic Stop Statistical Study Act.

(i) To study, recommend, and report no later than July 1, 2007 on technological solutions to aid in the identification, elimination, and prevention of racial profiling and to recommend funding sources for statewide implementation of the technological solutions.

(j) To report annually, on or before April 1 of each year, to the Governor and the General Assembly on the Governing Board's activities in the preceding fiscal year.

(k) To study whether Illinois should continue the mandatory data collection required under this Act as well as the best practices of data collection as related to the identification, elimination, and prevention of bias-based policing and report its findings and recommendations to the Governor and the General

Assembly by July 1, 2008.

Section 90. The Illinois Vehicle Code is amended by changing Section 11-212 as follows:
(625 ILCS 5/11-212)
Sec. 11-212. Traffic stop statistical study.
(a) Whenever ~~From January 1, 2004 until December 31, 2007, whenever~~ a State or local law enforcement officer issues a uniform traffic citation or warning citation for an alleged violation of the Illinois Vehicle Code, he or she shall record at least the following:
(1) the name, address, gender, and the officer's subjective determination of the race of the person stopped; the person's race shall be selected from the following list: Caucasian, African-American, Hispanic, Native American/Alaska Native, or Asian/Pacific Islander;
(2) the alleged traffic violation that led to the stop of the motorist;
(3) the make and year of the vehicle stopped;
(4) the date and time of the stop, beginning when the vehicle was stopped and ending when the driver is free to leave or taken into physical custody;
(5) the location of the traffic stop;
(5.5) whether or not a consent search contemporaneous to the stop was requested of the vehicle, driver, passenger, or passengers; and, if so, whether consent was given or denied;
(6) whether or not a search contemporaneous to the stop was conducted of the vehicle, driver, passenger, or passengers; and, if so, whether it was with consent or by other means; ~~and~~
(6.5) whether or not contraband was found during a search; and, if so, the type and amount of contraband seized; and
(7) the name and badge number of the issuing officer.
(b) Whenever ~~From January 1, 2004 until December 31, 2007, whenever~~ a State or local law enforcement officer stops a motorist for an alleged violation of the Illinois Vehicle Code and does not issue a uniform traffic citation or warning citation for an alleged violation of the Illinois Vehicle Code, he or she shall complete a uniform stop card, which includes field contact cards, or any other existing form currently used by law enforcement containing information required pursuant to this Act, that records at least the following:
(1) the name, address, gender, and the officer's subjective determination of the race of the person stopped; the person's race shall be selected from the following list: Caucasian, African-American, Hispanic, Native American/Alaska Native, or Asian/Pacific Islander;
(2) the reason that led to the stop of the motorist;
(3) the make and year of the vehicle stopped;
(4) the date and time of the stop, beginning when the vehicle was stopped and ending when the driver is free to leave or taken into physical custody;
(5) the location of the traffic stop;
(5.5) whether or not a consent search contemporaneous to the stop was requested of the vehicle, driver, passenger, or passengers; and, if so, whether consent was given or denied;
(6) whether or not a search contemporaneous to the stop was conducted of the vehicle, driver, passenger, or passengers; and, if so, whether it was with consent or by other means; ~~and~~
(6.5) whether or not contraband was found during a search; and, if so, the type and amount of contraband seized; and
(7) the name and badge number of the issuing officer.
(c) The Illinois Department of Transportation shall provide a standardized law enforcement data compilation form on its website.
(d) Every law enforcement agency shall, by March 1 with regard to data collected during July through December of the previous calendar year and by August 1 with regard to data collected during January through June of the current calendar year ~~in each of the years 2004, 2005, 2006, and 2007~~, compile the data described in subsections (a) and (b) on the standardized law enforcement data compilation form provided by the Illinois Department of Transportation and transmit the data to the Department.
(e) The Illinois Department of Transportation shall analyze the data provided by law enforcement agencies required by this Section and submit a report of the previous year's findings to the Governor, the General Assembly, the Racial Profiling Prevention and Data Oversight Board, and each law enforcement agency no later than July 1 of each year ~~in each of the years 2005, 2006, 2007, and 2008~~. The Illinois Department of Transportation may contract with an outside entity for the analysis of the data provided. In analyzing the data collected under this Section, the analyzing entity shall scrutinize the data for evidence of statistically significant aberrations. The following list, which is illustrative, and not exclusive, contains examples of areas in which statistically significant aberrations may be found:

(1) The percentage of minority drivers or passengers being stopped in a given area is substantially higher than the proportion of the overall population in or traveling through the area that the minority constitutes.

(2) A substantial number of false stops including stops not resulting in the issuance of a traffic ticket or the making of an arrest.

(3) A disparity between the proportion of citations issued to minorities and proportion of minorities in the population.

(4) A disparity among the officers of the same law enforcement agency with regard to the number of minority drivers or passengers being stopped in a given area.

(5) A disparity between the frequency of searches performed on minority drivers and the frequency of searches performed on non-minority drivers.

(f) Any law enforcement officer identification information or driver identification information that is compiled by any law enforcement agency or the Illinois Department of Transportation pursuant to this Act for the purposes of fulfilling the requirements of this Section shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the information shall not be transmitted to anyone except as needed to comply with this Section. This Section shall not exempt those materials that, prior to the effective date of this amendatory Act of the 93rd General Assembly, were available under the Freedom of Information Act.

(g) Funding to implement this Section shall come from federal highway safety funds available to Illinois, as directed by the Governor.

(h) The Illinois Department of Transportation, in consultation with law enforcement agencies, officials, and organizations, including Illinois chiefs of police, the Department of State Police, the Illinois Sheriffs Association, and the Chicago Police Department, and community groups and other experts, shall undertake a study to determine the best use of technology to collect, compile, and analyze the traffic stop statistical study data required by this Section. The Department shall report its findings and recommendations to the Governor and the General Assembly by March 1, 2004.

(i) The Racial Profiling Prevention and Data Oversight Board shall undertake a study to determine the best use of technology to collect, compile, and analyze the traffic stop statistical study data required by this Section as well as strategies to fund implementation of recommended technologies. The Board shall report its findings and recommendations to the Governor and the General Assembly by July 1, 2007.

(j) The Racial Profiling Prevention and Data Oversight Board shall undertake a comprehensive study to determine whether Illinois should continue the mandatory data collection required under this Section as well as the best practices of data collection as related to the identification, elimination, and prevention of bias-based policing. The Board shall report its findings and recommendations to the Governor and the General Assembly by July 1, 2008.

(k) This Section is repealed on July 1, 2010.

(Source: P.A. 93-209, eff. 7-18-03.)

Section 99. Effective date. This Act takes effect upon becoming law, except that the changes to Section 11-212 of the Illinois Vehicle Code take effect January 1, 2007.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 2368**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 54; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Rutherford
Axley	Geo-Karis	Meeks	Sandoval
Bomke	Haine	Millner	Schoenberg
Burzynski	Halvorson	Munoz	Shadid
Clayborne	Harmon	Pankau	Sieben
Collins	Hendon	Peterson	Silverstein
Cronin	Hunter	Petka	Sullivan
Crotty	Jacobs	Radogno	Syverson
Cullerton	Jones, J.	Raoul	Trotter
Dahl	Jones, W.	Rauschenberger	Viverito
del Valle	Lightford	Righter	Watson
DeLeo	Link	Risinger	Mr. President
Dillard	Luechtefeld	Ronen	
Forby	Maloney	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Raoul, **Senate Bill No. 2369** was recalled from the order of third reading to the order of second reading.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2369

AMENDMENT NO. 1. Amend Senate Bill 2369, by replacing everything after the enacting clause with the following:

"Section 5. The Automobile Renting Occupation and Use Tax Act is amended by changing Section 2 as follows:

(35 ILCS 155/2) (from Ch. 120, par. 1702)

Sec. 2. Definitions. "Renting" means any transfer of the possession or right to possession of an automobile to a user for a valuable consideration for a period of one year or less.

"Renting" does not include making a charge for the use of an automobile where the rentor, either himself or through an agent, furnishes a service of operating an automobile so that the rentor remains in possession of the automobile, because this does not constitute a transfer of possession or right to possession of the automobile.

"Renting" does not include the making of a charge by an automobile dealer for the use of an automobile as a demonstrator in connection with the dealer's business of selling, where the charge is merely made to recover the costs of operating the automobile as a demonstrator and is not intended as a rental or leasing charge in the ordinary sense.

"Automobile" means any motor vehicle of the first division, a motor vehicle of the second division which is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division which is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code.

"Car-sharing organization" means a membership-based organization: (i) with a qualified fleet of automobiles that are rented or leased to members primarily for hourly use through a self-service, fully automated reservation system; (ii) that charges a membership fee separately from the hourly charge for the rental or lease of a specific vehicle; (iii) that provides all legally required insurance as part of its initiation fees, membership dues, or leasing or rental charges; and (iv) that does not require a separate written agreement each time a member rents or leases a specific automobile.

For the purposes of this definition:

"Qualified fleet" means a distributed fleet of automobiles:

(1) at least 10% of which is comprised of automobiles that have hybrid engines, with a goal of at

least 20% within 3 years after the effective date of this amendatory Act of the 94th General Assembly; and

(2) at least 50% of which is comprised of automobiles that are ultra-low emission vehicles.

"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, conservator or other representative appointed by order of any court.

"Rentor" means any person, firm, corporation or association engaged in the business of renting or leasing automobiles to users. For this purpose, the objective of making a profit is not necessary to make the renting activity a business.

"Rentee" means any user to whom the possession, or the right to possession, of an automobile is transferred for a valuable consideration for a period of one year or less, whether paid for by the "rentee" or by someone else.

"Gross receipts" from the renting of tangible personal property or "rent" means the total rental price or leasing price. In the case of rental transactions in which the consideration is paid to the rentor on an installment basis, the amounts of such payments shall be included by the rentor in gross receipts or rent only as and when payments are received by the rentor.

"Gross receipts" does not include receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by that automobile dealer and the repair is made pursuant to a manufacturer's warranty or a service contract where a manufacturer or service contract provider reimburses that automobile dealer pursuant to a manufacturer's warranty or a service contract and the reimbursement is merely made to recover the costs of operating the automobile as a loaner vehicle.

"Rental price" means the consideration for renting or leasing an automobile valued in money, whether received in money or otherwise, including cash credits, property and services, and shall be determined without any deduction on account of the cost of the property rented, the cost of materials used, labor or service cost, or any other expense whatsoever, but does not include charges that are added by a rentor on account of the rentor's tax liability under this Act or on account of the rentor's duty to collect, from the rentee, the tax that is imposed by Section 4 of this Act. The phrase "rental price" does not include compensation paid to a rentor by a rentee in consideration of the waiver by the rentor of any right of action or claim against the rentee for loss or damage to the automobile rented and also does not include a separately stated charge for insurance or recovery of refueling costs or other separately stated charges that are not for the use of tangible personal property.

(Source: P.A. 90-14, eff. 7-1-97; 91-193, eff. 7-20-99.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 2369**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 30; Nays 18; Present 1.

The following voted in the affirmative:

Clayborne	Haine	Maloney	Silverstein
Collins	Halvorson	Martinez	Sullivan
Crotty	Harmon	Meeks	Trotter
del Valle	Hendon	Munoz	Viverito
DeLeo	Hunter	Raoul	Wilhelmi
Forby	Jacobs	Ronen	Mr. President

Garrett	Lightford	Sandoval	
Geo-Karis	Link	Schoenberg	

The following voted in the negative:

Axley	Jones, W.	Petka	Rutherford
Bomke	Lauzen	Radogno	Syverson
Burzynski	Luechtefeld	Rauschenberger	Watson
Dillard	Pankau	Righter	
Jones, J.	Peterson	Roskam	

The following voted present:

Millner

This roll call verified.

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 therein.

On motion of Senator Millner, **Senate Bill No. 2374**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Burzynski	Harmon	Pankau	Silverstein
Clayborne	Hendon	Peterson	Sullivan
Collins	Hunter	Petka	Syverson
Cronin	Jacobs	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

Senator Demuzio asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **Senate Bill No. 2374**.

SENATE BILL RECALLED

On motion of Senator Sandoval, **Senate Bill No. 2376** 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 TO SENATE BILL 2376

AMENDMENT NO. 1. Amend Senate Bill 2376 on page 1, line 9, after "Act", by inserting "and subject to appropriation".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Sandoval, **Senate Bill No. 2376**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 38; Nays 16.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Schoenberg
Axley	Halvorson	Millner	Shadid
Clayborne	Harmon	Munoz	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Lightford	Ronen	Wilhelmi
del Valle	Link	Roskam	Mr. President
DeLeo	Maloney	Rutherford	
Forby	Martinez	Sandoval	

The following voted in the negative:

Burzynski	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	
Geo-Karis	Luechtefeld	Risinger	
Haine	Pankau	Sieben	
Jones, J.	Petka	Syverson	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Wilhelmi, **Senate Bill No. 2395**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg

Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2405** 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 TO SENATE BILL 2405

AMENDMENT NO. 2 . Amend Senate Bill 2405, AS AMENDED, with reference to the page and line numbers of Senate Amendment No. 1, on page 1, by replacing line 6 with the following:

"adding Sections 1-105.2 and 11-208.6 as follows:

(625 ILCS 5/1-105.2 new)

Sec. 1-105.2. Automated traffic law violation. A violation described in Section 11-208.6 of this Code."; and

on page 3, line 13, by replacing "if specified," with "if specified on the automated traffic law violation notice,"; and

on page 8, line 16, after "county", by inserting "designated in Section 11-208.6"; and

on page 9, lines 30 and 31, by replacing "make, if available and readily discernible, and" with "make and"; and

on page 9, line 32, after the period, by inserting "With regard to automated traffic law violations, vehicle make shall be specified on the automated traffic law violation notice if the make is available and readily discernible."; and

on page 10, line 17, by replacing "within 90 days after the violation." with "within 30 days after the Secretary of State notifies the municipality or county of the identity of the owner of the vehicle, but in no event later than 90 days after the violation."; and

on page 12, by replacing lines 15 through 19 with the following:

"(i) A second notice of parking, standing, or compliance violation. This notice shall specify the date and

location of the violation cited in the parking, standing, or compliance violation notice,"; and

on page 19, line 2, by replacing "within 90 days of the violation." with "within 30 days after the Secretary of State notifies the municipality or county of the identity of the owner of the vehicle, but in no event later than 90 days after the violation."; and

on page 20, line 34, by changing "$250" to "$100, plus an additional penalty of not more than $100 for failure to pay the original penalty in a timely manner,"; and

on page 21, immediately below line 14, by inserting the following:

"(l) This Section applies only to the counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and to municipalities located within those counties.".

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2405**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 33; Nays 22; Present 1.

The following voted in the affirmative:

Althoff	Dillard	Martinez	Sandoval
Axley	Garrett	Meeks	Schoenberg
Clayborne	Geo-Karis	Millner	Silverstein
Collins	Haine	Munoz	Trotter
Cronin	Harmon	Peterson	Viverito
Crotty	Hunter	Radogno	Mr. President
Cullerton	Lightford	Raoul	
del Valle	Link	Ronen	
DeLeo	Maloney	Roskam	

The following voted in the negative:

Bomke	Jones, J.	Rauschenberger	Sullivan
Burzynski	Jones, W.	Righter	Syverson
Dahl	Lauzen	Risinger	Watson
Demuzio	Luechtefeld	Rutherford	Wilhelmi
Forby	Pankau	Shadid	
Jacobs	Petka	Sieben	

The following voted present:

Hendon

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 therein.

SENATE BILL RECALLED

On motion of Senator Crotty, **Senate Bill No. 2436** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2436

AMENDMENT NO. 2. Amend Senate Bill 2436 on page 1, line 5, by replacing "Section 12" with "Sections 12 and 13"; and

on page 4, immediately below line 5, by inserting the following:

"(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

(Section scheduled to be repealed on July 1, 2006)

Sec. 13. Investigation of applications for permits and certificates of recognition. The Agency or the State Board shall make or cause to be made such investigations as it or the State Board deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, or the End Stage Renal Disease Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the Agency. For health care facilities licensed under the Nursing Home Care Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. For health care facilities that contain beds, the reports shall also include the number of staffed beds, physical capacity for beds at the facility, and beds available for immediate occupancy.

(Source: P.A. 93-41, eff. 6-27-03.)".

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 OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 2436**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Trotter, **Senate Bill No. 2455**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Burzynski	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2465** 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 TO SENATE BILL 2465

AMENDMENT NO. 1. Amend Senate Bill 2465 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Clean Indoor Air Act is amended by adding Section 4.5 as follows:
(410 ILCS 80/4.5 new)
Sec. 4.5. Smoking prohibited in student dormitories.
(a) Notwithstanding any other provision of this Act, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.
(b) This Section does not apply to any commercial area within the building.

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 foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2465**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 50; Nays 5.

The following voted in the affirmative:

Althoff	Forby	Luechtefeld	Sandoval
Axley	Garrett	Maloney	Schoenberg
Bomke	Geo-Karis	Martinez	Shadid
Burzynski	Haine	Meeks	Sieben
Clayborne	Halvorson	Millner	Sullivan
Collins	Harmon	Munoz	Syverson
Cronin	Hendon	Pankau	Trotter
Crotty	Hunter	Peterson	Viverito
Cullerton	Jones, J.	Radogno	Watson
del Valle	Jones, W.	Risinger	Wilhelmi
DeLeo	Lauzen	Ronen	Mr. President
Demuzio	Lightford	Roskam	
Dillard	Link	Rutherford	

The following voted in the negative:

Dahl	Petka	Rauschenberger
Jacobs	Raoul	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Crotty, **Senate Bill No. 2469** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2469

AMENDMENT NO. 3. Amend Senate Bill 2469, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by changing Section 4.17 and by adding Section 4.27 as follows:

(5 ILCS 80/4.17)

Sec. 4.17. Acts repealed on January 1, 2007. The following are repealed on January 1, 2007:

The Boiler and Pressure Vessel Repairer Regulation Act.

The Structural Pest Control Act.

Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC, XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

The Clinical Psychologist Licensing Act.

~~The Illinois Optometric Practice Act of 1987.~~

The Medical Practice Act of 1987.

The Environmental Health Practitioner Licensing Act.

(Source: P.A. 92-837, eff. 8-22-02.)

(5 ILCS 80/4.27 new)

Sec. 4.27. Act repealed on January 1, 2017. The following Act is repealed on January 1, 2017:

The Illinois Optometric Practice Act of 1987.

Section 10. The Illinois Optometric Practice Act of 1987 is amended by changing Sections 3, 4.5, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.1, 16, 17, 19, 20, 21, 23, 24, 25, 26.1, 26.2, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.12, 26.13, and 28 and by adding Sections 11.5 and 15.2 as follows:

(225 ILCS 80/3) (from Ch. 111, par. 3903)

(Section scheduled to be repealed on January 1, 2007)

Sec. 3. Practice of optometry defined; referrals; manufacture of lenses and prisms.

(a) The practice of optometry is defined as the employment of any and all means for the examination, diagnosis, and treatment of the human visual system, the human eye, and its appendages without the use of surgery, including but not limited to: the appropriate use of ~~diagnostic ocular pharmaceutical agents and therapeutic~~ ocular pharmaceutical agents; refraction and other determinants of visual function; prescribing corrective lenses or prisms; prescribing, dispensing, or management of contact lenses; vision therapy; visual rehabilitation; or any other procedures taught in schools and colleges of optometry approved by the Department, and not specifically restricted in this Act, subject to demonstrated competency and training as required by the Board, and pursuant to rule or regulation approved by the Board and adopted by the Department.

A person shall be deemed to be practicing optometry within the meaning of this Act who:

(1) In any way presents himself or herself to be qualified to practice optometry.

(2) Performs refractions or employs any other determinants of visual function.

(3) Employs any means for the adaptation of lenses or prisms.

(4) Prescribes corrective lenses, prisms, vision therapy, visual rehabilitation, or ocular pharmaceutical agents.

(5) Prescribes or manages contact lenses for refractive, cosmetic, or therapeutic purposes.

(6) Evaluates the need for, or prescribes, low vision aids to partially sighted persons.

(7) Diagnoses or treats any ocular abnormality, disease, or visual or muscular anomaly of the human eye or visual system.

(8) Practices, or offers or attempts to practice, optometry as defined in this Act

either on his or her own behalf or as an employee of a person, firm, or corporation, whether under the supervision of his or her employer or not.

Nothing in this Section shall be interpreted (i) to prevent a person from functioning as an assistant under the direct supervision of a person licensed by the State of Illinois to practice optometry or medicine in all of its branches or (ii) to prohibit visual screening programs that are conducted without a

fee (other than voluntary donations), by charitable organizations acting in the public welfare under the supervision of a committee composed of persons licensed by the State of Illinois to practice optometry or persons licensed by the State of Illinois to practice medicine in all of its branches.

(b) When, in the course of providing optometric services to any person, an optometrist licensed under this Act finds an indication of a disease or condition of the eye which in his or her professional judgment requires professional service outside the scope of practice as defined in this Act, he or she shall refer such person to a physician licensed to practice medicine in all of its branches, or other appropriate health care practitioner. Nothing in this Act shall preclude an optometrist ~~who is therapeutically certified~~ from rendering appropriate nonsurgical ~~ophthalmic~~ emergency care.

(c) Nothing contained in this Section shall prohibit a person from manufacturing ophthalmic lenses and prisms or the fabrication of contact lenses according to the specifications prescribed by an optometrist or a physician licensed to practice medicine in all of its branches, but shall specifically prohibit the sale or delivery of ophthalmic lenses, prisms, and contact lenses without a prescription signed by an optometrist or a physician licensed to practice medicine in all of its branches.

(d) Nothing in this Act shall restrict the filling of a prescription by a pharmacist licensed under the Pharmacy Practice Act of 1987.

(Source: P.A. 90-655, eff. 7-30-99; 91-141, eff. 7-16-99.)

(225 ILCS 80/4.5)

(Section scheduled to be repealed on January 1, 2007)

Sec. 4.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice optometry without being licensed under this Act or any individual or entity that causes or attempts to cause a licensed optometrist or any other person under that individual's or entity's control to violate this Act or any other State or federal law or rule related to the practice of optometry shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $10,000 ~~$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 93-754, eff. 7-16-04.)

(225 ILCS 80/5) (from Ch. 111, par. 3905)

(Section scheduled to be repealed on January 1, 2007)

Sec. 5. Title and designation of licensed optometrists. Every person to whom a valid existing license as an optometrist has been issued under this Act, shall be designated professionally as an "optometrist" and not otherwise, and any such licensed optometrist may, in connection with the practice of his or her profession, use the title or designation of "optometrist", and, if entitled by degree from a college or university recognized by the Department of Financial and Professional Regulation, may use the title of "Doctor of Optometry", or the abbreviation "O.D.". When the name of such licensed optometrist is used professionally in oral, written, or printed announcements, prescriptions, professional cards, or publications for the information of the public, and is preceded by the title "Doctor" or the abbreviation "Dr.", the explanatory designation of "optometrist", "optometry", or "Doctor of Optometry" shall be added immediately following such title and name. When such announcement, prescription, professional care or publication is in writing or in print, such explanatory addition shall be in writing, type, or print not less than one-half the size of that used in said name and title. No person other than the holder of a valid existing license under this Act shall use the title and designation of "Doctor of Optometry", "O.D.", or "optometrist", either directly or indirectly in connection with his or her profession or business.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/6) (from Ch. 111, par. 3906)

(Section scheduled to be repealed on January 1, 2007)

Sec. 6. Display of license ~~or certificate~~; change of address; record of examinations and prescriptions. Every holder of a license ~~or certificate~~ under this Act shall display such license ~~or certificate~~ on a conspicuous place in the office or offices wherein such holder practices optometry and every holder shall, whenever requested, exhibit such license ~~or certificate~~ to any representative of the Department, and shall notify the Department of the address or addresses and of every change thereof, where such holder shall practice optometry.

Every licensed optometrist shall keep a record of examinations made and prescriptions issued, which

record shall include the names of persons examined and for whom prescriptions were prepared, and shall be signed by the licensed optometrist and retained by him in the office in which such professional service was rendered. Such records shall be preserved by the optometrist for a period designated by the Department. A copy of such records shall be provided, upon written request, to the person examined, or his or her designee.

(Source: P.A. 91-141, eff. 7-16-99.)

(225 ILCS 80/7) (from Ch. 111, par. 3907)

(Section scheduled to be repealed on January 1, 2007)

Sec. 7. Additional licenses ~~and certificates~~. Upon proper application and payment of the prescribed fee, additional licenses ~~and certificates~~ may be issued to active practitioners who are engaged in the practice of optometry at more than one address. A license must be displayed at each location where the licensee engages in the practice of optometry. Nothing contained herein, however, shall be construed to require a licensed optometrist in active practice to obtain an additional license ~~or certificate~~ for the purpose of serving on the staff of a hospital or an institution that receives no fees (other than entrance registration fees) for the services rendered by the optometrist and for which the optometrist receives no fees or compensation directly or indirectly for such services rendered. Nothing contained herein shall be construed to require a licensed optometrist to obtain an additional license ~~or certificate~~ for the purpose of rendering necessary optometric services for his or her patients confined to their homes, hospitals or institutions, or to act in an advisory capacity, with or without remuneration, in any industry, school or institution.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/8) (from Ch. 111, par. 3908)

(Section scheduled to be repealed on January 1, 2007)

Sec. 8. Permitted activities. This Act does not prohibit:

(1) Any person licensed in this State under any other Act from engaging in the practice for which he or she is licensed.

(2) The practice of optometry by a person who is employed by the United States government or any bureau, division or agency thereof while in the discharge of the employee's official duties.

(3) The practice of optometry that is included in their program of study by students enrolled in schools of optometry or in continuing education ~~refresher~~ courses approved by the Department.

(4) Persons, firms, and corporations who manufacture or deal in eye glasses or spectacles in a store, shop, or other permanently established place of business, and who neither practice nor attempt to practice optometry from engaging the services of one or more licensed optometrists, nor prohibit any such licensed optometrist when so engaged, to practice optometry as defined in Section 3 of this Act, when the person, or firm, or corporation so conducts his or her or its business in a permanently established place and in such manner that his or her or its activities, in any department in which such optometrist is engaged, insofar as the practice of optometry is concerned, are in keeping with the limitations imposed upon individual practitioners of optometry by subparagraphs 17, 23, 26, 27, 28, 29, and 30 of Section 24 of this Act; provided, that such licensed optometrist or optometrists shall not be exempt, by reason of such relationship, from compliance with the provisions of this Act as prescribed for individual practitioners of optometry.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/9) (from Ch. 111, par. 3909)

(Section scheduled to be repealed on January 1, 2007)

Sec. 9. Definitions. In this Act:

(1) "Department" means the Department of Financial and Professional Regulation.

(2) "Secretary ~~Director~~" means the Secretary ~~Director~~ of Financial and Professional Regulation.

(3) "Board" means the Illinois Optometric Licensing and Disciplinary Board appointed by the Secretary ~~Director~~.

(4) "License" means the document issued by the Department authorizing the person named thereon to practice optometry.

(5) (Blank). ~~"Certificate" means the document issued by the Department authorizing the person named thereon as a certified optometrist qualified to use diagnostic topical ocular pharmaceutical agents or therapeutic ocular pharmaceutical agents.~~

(6) "Direct supervision" means supervision of any person assisting an optometrist, requiring that the optometrist authorize the procedure, remain in the facility while the procedure is performed, approve the work performed by the person assisting before dismissal of the patient, but does not mean that the optometrist must be present with the patient, during the procedure.

(Source: P.A. 89-140, eff. 1-1-96; 89-702, eff. 7-1-97.)

(225 ILCS 80/10) (from Ch. 111, par. 3910)

(Section scheduled to be repealed on January 1, 2007)

Sec. 10. Powers and duties of Department; rules; report. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of Licensing Acts and shall exercise such other powers and duties necessary for effectuating the purpose of this Act.

The Secretary ~~Director~~ shall promulgate Rules consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms that shall be issued in connection therewith. The rules shall include standards and criteria for licensure and certification, and professional conduct and discipline.

The Department shall consult with the Board in promulgating rules. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the Board's responses and any recommendations made therein. The Department shall notify the Board in writing with explanations of deviations from the Board's recommendations and responses. The Department may solicit the advice of the Board on any matter relating to the administration and enforcement of this Act.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/11) (from Ch. 111, par. 3911)

(Section scheduled to be repealed on January 1, 2007)

Sec. 11. Optometric Licensing and Disciplinary Board. The Secretary ~~Director~~ shall appoint an Illinois Optometric Licensing and Disciplinary Board as follows: Seven persons who shall be appointed by and shall serve in an advisory capacity to the Secretary ~~Director~~. Five members must be lawfully and actively engaged in the practice of optometry in this State, one member shall be a licensed optometrist ~~who is a member~~, with a full-time faculty appointment with the Illinois College of Optometry, and one member must be a member of the public who shall be a voting member and is not licensed under this Act, or a similar Act of another jurisdiction, or have any connection with the profession. Neither the public member nor the faculty member shall participate in the preparation or administration of the examination of applicants for licensure or certification.

Members shall serve 4-year terms and until their successors are appointed and qualified. No member shall be appointed to the Board for more than 2 successive 4-year terms, not counting any partial terms when appointed to fill the unexpired portion of a vacated term. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. ~~Initial terms shall begin upon the effective date of this Act. Board members in office on that date may be appointed to specific terms as indicated herein.~~

The Board shall annually elect a chairperson and a vice-chairperson, both of whom shall be licensed optometrists.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

The Secretary ~~Director~~ may terminate the appointment of any member for cause.

The Secretary ~~Director~~ shall give due consideration to all recommendations of the Board, and in the event that the Secretary ~~Director~~ disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of this action. None of the functions, powers or duties of the Department with respect to policy matters relating to licensure, discipline, and examination, including the promulgation of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Board.

Without, in any manner, limiting the power of the Department to conduct investigations, the Board may recommend to the Secretary ~~Director~~ that one or more licensed optometrists be selected by the Secretary ~~Director~~ to conduct or assist in any investigation pursuant to this Act. Such licensed optometrist may receive remuneration as determined by the Secretary ~~Director~~.

(Source: P.A. 91-141, eff. 7-16-99.)

(225 ILCS 80/11.5 new)

(Section scheduled to be repealed on January 1, 2017)

Sec. 11.5. Optometric coordinator. The Secretary shall, upon consultation with the Board and with consideration of credentials and experience commensurate with the requirements of the position, select an optometric coordinator who shall not be a member of the Board. The optometric coordinator shall be an optometrist licensed to practice in Illinois and shall be employed by the Department contractually or in conformance with the Personnel Code. The optometric coordinator shall be the chief enforcement officer of this Act and shall serve at the will of the Board.

(225 ILCS 80/12) (from Ch. 111, par. 3912)

(Section scheduled to be repealed on January 1, 2007)

Sec. 12. Applications for licenses ~~and certificates~~. Applications for original licenses ~~and certificates~~ shall be made to the Department in writing or electronically on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be refundable. Any such application shall require such information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for a license ~~or certificate~~.

~~An applicant for initial licensure in Illinois shall apply for and be qualified to receive and shall maintain certification to use diagnostic and therapeutic ocular pharmaceuticals.~~

Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the application fees shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Applicants who meet all other conditions for licensure and who will be practicing optometry in a residency program approved by the Board may apply for and receive a limited one year license to practice optometry as a resident in the program. The holder of a valid one-year residency license may perform those acts prescribed by and incidental to the residency license holder's program of residency training, with the same privileges and responsibilities as a fully licensed optometrist, but may not otherwise engage in the practice of optometry in this State, unless fully licensed under this Act. ~~A licensee who receives a limited license under this Section shall have the same privileges and responsibilities as a therapeutically certified licensee.~~

The Department may revoke a one-year residency license upon proof that the residency license holder has engaged in the practice of optometry in this State outside of his or her residency program or if the residency license holder fails to supply the Department, within 10 days after its request, with information concerning his or her current status and activities in the residency program.

(Source: P.A. 91-141, eff. 7-16-99; 92-451, eff. 8-21-01.)

(225 ILCS 80/13) (from Ch. 111, par. 3913)

(Section scheduled to be repealed on January 1, 2007)

Sec. 13. Examination of applicants. The Department shall promulgate rules establishing examination requirements for applicants as optometrists. The examination shall accurately evaluate the applicant's ability to perform to the minimum standards of the practice of optometry ~~of applicants shall be of a character to give a fair test of the qualifications of the applicant to practice optometry~~.

Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. ~~Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.~~

The Department may employ consultants for the purpose of preparing and conducting examinations.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/14) (from Ch. 111, par. 3914)

(Section scheduled to be repealed on January 1, 2007)

Sec. 14. A person shall be qualified for initial licensure as an optometrist if that person has applied in writing in form and substance satisfactory to the Department and who:

(1) has not been convicted of any of the provisions of Section 24 of this Act which would be grounds for discipline under this Act;

(2) has graduated, after January 1, 1994, from a program of optometry education approved by the Department or has graduated, prior to January 1, 1994, and has met substantially equivalent criteria established by the Department;

(3) (blank); and

(4) has met all examination requirements including the passage of a nationally recognized examination authorized by the Department. Each applicant shall be tested on theoretical knowledge and clinical practice skills.

(Source: P.A. 89-387, eff. 8-20-95.)

(225 ILCS 80/15.1)

(Section scheduled to be repealed on January 1, 2007)

Sec. 15.1. Diagnostic and therapeutic authority ~~certification~~.

(a) For purposes of the Act, "ocular pharmaceutical agents" means topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics, topical anti-infective agents, topical anti-allergy agents, topical anti-glaucoma agents, topical anti-inflammatory agents, topical anesthetic agents, over-the-counter agents, non-narcotic oral analgesic agents, and mydriatic reversing agents when used

for diagnostic or therapeutic purposes.

(b) A licensed optometrist may remove superficial foreign bodies from the human eye and adnexa and may give orders for patient care to a nurse licensed to practice under Illinois law.

(c) An optometrist's license shall be revoked or suspended by the Department upon recommendation of the Board based upon either of the following causes:

(1) grave or repeated misuse of any ocular pharmaceutical agent; and

(2) the use of any agent or procedure in the course of optometric practice by an optometrist not properly authorized under this Act.

(d) The Secretary of Financial and Professional Regulation shall notify the Director of Public Health as to the categories of ocular pharmaceutical agents permitted for use by an optometrist. The Director of Public Health shall in turn notify every licensed pharmacist in the State of the categories of ocular pharmaceutical agents that can be utilized and prescribed by an optometrist. ~~Any licensed optometrist may apply to the Department, in the form the Department may prescribe, for a certificate to use diagnostic topical ocular pharmaceutical agents and the Department shall certify the applicant if:~~

~~(1) the applicant has received appropriate training and certification from a properly accredited institution of higher learning for the certificate; and~~

~~(2) the applicant has demonstrated training and competence to use diagnostic topical ocular pharmaceutical agents as required by the Board pursuant to rule or regulation approved by the Board and adopted by the Department.~~

~~A certificate to use topical ocular pharmaceutical agents for diagnostic purposes previously issued by the Department that is current and valid on the effective date of this amendatory Act of 1995 is valid until its expiration date and entitles the holder of the certificate to use diagnostic topical ocular pharmaceutical agents as provided in this Act.~~

(b) ~~Any licensed optometrist may apply to the Department, in the form the Department may prescribe, for a certificate to use therapeutic ocular pharmaceutical agents and the Department shall certify the applicant if:~~

~~(1) the applicant has received a certificate to use diagnostic topical ocular pharmaceutical agents under subsection (a);~~

~~(2) the applicant has received appropriate training and certification from a properly accredited institution of higher learning for the certificate; and~~

~~(3) the applicant has demonstrated training and competence to use therapeutic ocular pharmaceutical agents as required by the Board pursuant to rule or regulation approved by the Board and adopted by the Department.~~

~~All applicants for license renewal after January 1, 2006 must apply for and maintain certification to use therapeutic ocular pharmaceutical agents.~~

~~(c) For purposes of the Act, "diagnostic topical ocular pharmaceutical agents" means anesthetics, mydriatics, cycloplegics, and miotics used for diagnostic purposes as defined by the Board pursuant to rule approved by the Board and adopted by the Department.~~

~~(d) For the purposes of the Act, "therapeutic ocular pharmaceutical agents" means the following when used for diagnostic or therapeutic purposes: topical anti-infective agents, topical anti-allergy agents, topical anti-glaucoma agents, topical anti-inflammatory agents, topical anesthetic agents, over the counter agents, non-narcotic oral analgesic agents, and mydriatic reversing agents.~~

~~(e) A licensed optometrist who is therapeutically certified may remove superficial foreign bodies from the human eye and adnexa.~~

~~(e-5) A licensed optometrist who is therapeutically certified may give orders for patient care related to the use of therapeutic ocular pharmaceutical agents to a nurse licensed to practice under Illinois law.~~

~~(f) An optometrist's certificate to use diagnostic topical ocular pharmaceutical agents shall be revoked or suspended by the Department upon recommendation of the Board based on the misuse of any diagnostic topical ocular pharmaceutical agent.~~

~~(g) An optometrist's certificate to use therapeutic ocular pharmaceutical agents shall be revoked or suspended by the Department upon recommendation of the Board based on the misuse of any therapeutic ocular pharmaceutical agent.~~

~~(h) An optometrist's license shall be revoked or suspended by the Department upon recommendation of the Board based upon either of the following causes:~~

~~(1) grave or repeated misuse of any diagnostic or therapeutic ocular pharmaceutical agent; and~~

~~(2) the use of any agent or procedure in the course of optometric practice by an optometrist not properly certified under this Section.~~

~~(i) The provisions of Sections 26.2, 26.3, 26.5, 26.10, 26.11, 26.14, and 26.15 of this Act shall apply to all disciplinary proceedings brought under this Section.~~

~~(j) The Director may temporarily suspend a certificate to use diagnostic topical ocular pharmaceuticals or a certificate to use therapeutic ocular pharmaceuticals or a license to practice optometry, without a hearing, simultaneously with the institution of proceedings for a hearing based upon a violation of subsection (f), (g), or (h) of this Section, if the Director finds that evidence in his or her possession indicates that the continued use of diagnostic topical ocular pharmaceuticals, or therapeutic ocular pharmaceuticals, or continued practice of optometry would constitute an immediate danger to the public. In the event that the Director temporarily suspends a certificate to use diagnostic topical ocular pharmaceuticals, therapeutic ocular pharmaceuticals, or a license to practice optometry without a hearing, a hearing by the Board shall be commenced within 15 days after suspension has occurred, and concluded without appreciable delay.~~

~~(k) The Director of the Department of Professional Regulation shall notify the Director of the Department of Public Health as to the categories of ocular pharmaceutical agents permitted for use by an optometrist. The Director of the Department of Public Health shall in turn notify every licensed pharmacist in the State of the categories of ocular pharmaceutical agents that can be utilized and prescribed by an optometrist.~~

~~(l) Nothing in this Act prohibits the use of diagnostic topical ocular pharmaceutical agents or therapeutic ocular pharmaceutical agents in the practice of optometry by optometrists certified for such use under this Section.~~

(Source: P.A. 90-73, eff. 7-8-97; 91-141, eff. 7-16-99.)

(225 ILCS 80/15.2 new)

(Section scheduled to be repealed on January 1, 2007)

Sec. 15.2. Limited optometry license. Any licensed optometrist who (i) was originally licensed under a predecessor Act prior to 1965 and (ii) was not certified to use therapeutic ocular pharmaceutical agents as of January 1, 2006, shall, upon application and payment of a non-prorated fee of $200, be issued a limited optometry license by the Department to practice optometry until January 1, 2007, as provided for in this Section.

A limited optometry licensee may not diagnose or treat eye disease, remove foreign bodies from the eye, or use or prescribe pharmaceutical agents, but shall have all other rights and responsibilities of a licensee under this Act.

This Section is repealed on January 1, 2007.

(225 ILCS 80/16) (from Ch. 111, par. 3916)

(Section scheduled to be repealed on January 1, 2007)

Sec. 16. Renewal, reinstatement or restoration of licenses; military service. The expiration date and renewal period for each license ~~and certificate~~ issued under this Act shall be set by rule.

All renewal applicants shall provide proof of having met the requirements of continuing education set forth in the rules of the Department. The Department shall, by rule, provide for an orderly process for the reinstatement of licenses which have not been renewed due to failure to meet the continuing education requirements. The continuing education requirement may be waived for such good cause, including but not limited to illness or hardship, as defined by rules of the Department.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification may be accomplished through audits of records maintained by registrants; by requiring the filing of continuing education certificates with the Department; or by other means established by the Department.

Any optometrist who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by making application to the Department and filing proof acceptable to the Department of his or her fitness to have his or her license restored and by paying the required fees. Such proof of fitness may include evidence certifying to active lawful practice in another jurisdiction and must include proof of the completion of the continuing education requirements specified in the rules for the preceding license renewal period ~~for the applicant's level of certification~~ that has been completed during the 2 years prior to the application for license restoration.

The Department shall determine, by an evaluation program established by rule, his or her fitness for restoration of his or her license and shall establish procedures and requirements for such restoration.

However, any optometrist whose license expired while he or she was (1) in Federal Service on active duty with the Armed Forces of the United States, or the State Militia called into service or training, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license restored without paying any lapsed renewal fees if within 2 years after honorable termination of such service, training, or education, he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(Source: P.A. 92-451, eff. 8-21-01; 92-750, eff. 1-1-03.)

(225 ILCS 80/17) (from Ch. 111, par. 3917)

(Section scheduled to be repealed on January 1, 2007)

Sec. 17. Inactive status. Any optometrist who notifies the Department in writing on forms prescribed by the Department, may elect to place his or her license on an inactive status and shall be excused from payment of renewal fees until he or she notifies the Department in writing of his intent to restore his or her license.

Any optometrist requesting restoration from inactive status shall be required to pay the current renewal fee, to provide proof of completion of the continuing education requirements specified in the rules for the preceding license renewal period ~~for the applicant's level of certification~~ that has been completed during the 2 years prior to the application for restoration, and to restore his or her license as provided by rule of the Department. All licenses without "Therapeutic Certification" that are on inactive status as of March 31, 2006 shall be placed on non-renewed status and may only be restored after the licensee meets those requirements established by the Department.

Any optometrist whose license is in an inactive status shall not practice optometry in the State of Illinois.

Any licensee who shall practice while his or her license is lapsed or on inactive status shall be considered to be practicing without a license which shall be grounds for discipline under Section 24 subsection (a) of this Act.

(Source: P.A. 92-451, eff. 8-21-01.)

(225 ILCS 80/19) (from Ch. 111, par. 3919)

(Section scheduled to be repealed on January 1, 2007)

Sec. 19. Fees. The Department shall provide by rule, for a schedule of fees to be paid for licenses or certificates of registration by all applicants.

The ~~(a) Except as provided in paragraph (b) below, the~~ fees for the administration and enforcement of this Act, including but not limited to, original licensure and certification, renewal and restoration, shall be set by rule. The fees shall not be refundable.

~~(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of initial screening to determine eligibility and for providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.~~

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/20) (from Ch. 111, par. 3920)

(Section scheduled to be repealed on January 1, 2007)

Sec. 20. Fund. All moneys received by the Department pursuant to this Act shall be deposited in the Optometric Licensing and Disciplinary Board Fund, which is hereby created as a special fund in the State Treasury, and shall be used for the administration of this Act, including: (a) by the Board in the exercise of its powers and performance of its duties, as such use is made by the Department with full consideration of all recommendations of the Board; (b) for costs directly related to license renewal of persons licensed under this Act; and (c) for direct and allocable indirect costs related to the public purposes of the Department of Financial and Professional Regulation. Subject to appropriation, moneys in the Optometric Licensing and Disciplinary Board Fund may be used for the Optometric Education Scholarship Program administered by the Illinois Student Assistance Commission pursuant to Section 65.70 of the Higher Education Student Assistance Act.

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).

Money in the Optometric Licensing and Disciplinary Board Fund may be invested and reinvested, with all earnings received from such investment to be deposited in the Optometric Licensing and Disciplinary Board Fund and used for the same purposes as fees deposited in such fund.

~~Any monies in the Optometric Examining and Disciplinary Board Fund on the effective date of this Act shall be transferred to the Optometric Licensing and Disciplinary Board Fund.~~

~~Any obligations of the Optometric Examining and Disciplinary Board Fund unpaid on the effective date of this Act shall be paid from the Optometric Licensing and Disciplinary Board Fund.~~

(Source: P.A. 91-239, eff. 1-1-00; 92-569, eff. 6-26-02.)

(225 ILCS 80/21) (from Ch. 111, par. 3921)

(Section scheduled to be repealed on January 1, 2007)

Sec. 21. The Department shall maintain a roster of the names and addresses of all licensees ~~and certificate holders~~ and of all persons whose licenses ~~or certificates~~ have been suspended or revoked. This

roster shall be available upon written request and payment of the required fee.
(Source: P.A. 85-896.)

(225 ILCS 80/23) (from Ch. 111, par. 3923)

(Section scheduled to be repealed on January 1, 2007)

Sec. 23. Practice by corporations. No license shall be issued by the Department to any corporation that (i) has a stated purpose that includes, or (ii) practices or holds itself out as available to practice, optometry or any of the functions described in Section 3 of the Act~~, unless it is organized under the Professional Service Corporation Act~~.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/24) (from Ch. 111, par. 3924)

(Section scheduled to be repealed on January 1, 2007)

Sec. 24. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper, including fines not to exceed $10,000 ~~$5,000~~ for each violation, with regard to any license ~~or certificate~~ for any one or combination of the following causes:

(1) Violations of this Act, or of the rules promulgated hereunder.

(2) Conviction of or entry of a plea of guilty to any crime under the laws of any U.S. jurisdiction thereof that is a felony or that is a misdemeanor of which an essential element is dishonesty, or ~~of~~ any crime that is directly related to the practice of the profession.

(3) Making any misrepresentation for the purpose of obtaining a license ~~or certificate~~.

(4) Professional incompetence or gross negligence in the practice of optometry.

(5) Gross malpractice, prima facie evidence of which may be a conviction or judgment of malpractice in any court of competent jurisdiction.

(6) Aiding or assisting another person in violating any provision of this Act or rules.

(7) Failing, within 60 days, to provide information in response to a written request made by the Department that has been sent by certified or registered mail to the licensee's last known address.

(8) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill, or safety.

(10) 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 those set forth herein.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional services not actually or personally rendered. This shall not be deemed to include (i) rent or other remunerations paid to an individual, partnership, or corporation by an optometrist for the lease, rental, or use of space, owned or controlled, by the individual, partnership, corporation or association, and (ii) the division of fees between an optometrist and related professional service providers with whom the optometrist practices in a professional corporation organized under Section 3.6 of the Professional Service Corporation Act.

(12) A finding by the Department that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(13) Abandonment of a patient.

(14) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with State agencies or departments.

(15) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(16) Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(17) Solicitation of professional services other than permitted advertising.

(18) Failure to provide a patient with a copy of his or her record or prescription in accordance with federal law ~~upon the written request of the patient~~.

(19) Conviction by any court of competent jurisdiction, either within or without this State, of any violation of any law governing the practice of optometry, conviction in this or another

State of any crime that is a felony under the laws of this State or conviction of a felony in a federal court, if the Department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust.

(20) A finding that licensure has been applied for or obtained by fraudulent means.

(21) Continued practice by a person knowingly having an infectious or contagious disease.

(22) 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.

(23) Practicing or attempting to practice under a name other than the full name as shown on his or her license.

(24) Immoral conduct in the commission of any act, such as sexual abuse, sexual misconduct or sexual exploitation, related to the licensee's practice.

(25) Maintaining a professional relationship with any person, firm, or corporation when the optometrist knows, or should know, that such person, firm, or corporation is violating this Act.

(26) Promotion of the sale of drugs, devices, appliances or goods provided for a client or patient in such manner as to exploit the patient or client for financial gain of the licensee.

(27) Using the title "Doctor" or its abbreviation without further qualifying that title or abbreviation with the word "optometry" or "optometrist".

(28) Use by a licensed optometrist of the word "infirmary", "hospital", "school", "university", in English or any other language, in connection with the place where optometry may be practiced or demonstrated.

(29) Continuance of an optometrist in the employ of any person, firm or corporation, or as an assistant to any optometrist or optometrists, directly or indirectly, after his or her employer or superior has been found guilty of violating or has been enjoined from violating the laws of the State of Illinois relating to the practice of optometry, when the employer or superior persists in that violation.

(30) The performance of optometric service in conjunction with a scheme or plan with another person, firm or corporation known to be advertising in a manner contrary to this Act or otherwise violating the laws of the State of Illinois concerning the practice of optometry.

(31) Failure to provide satisfactory proof of having participated in approved continuing education programs as determined by the Board and approved by the Secretary ~~Director~~. Exceptions for extreme hardships are to be defined by the rules of the Department.

(32) Willfully making or filing false records or reports in the practice of optometry, including, but not limited to false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(33) Gross and willful overcharging for professional services including filing false statements for collection of fees for which services are not rendered, including, but not limited to filing false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(34) In the absence of good reasons to the contrary, failure to perform a minimum eye examination as required by the rules of the Department.

(35) Violation of the Health Care Worker Self-Referral Act.

The Department may refuse to issue or may suspend the license ~~or certificate~~ of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(a-5) In enforcing this Section, the Board upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Board. The Board or the Department may order the examining physician or clinical psychologist to present testimony concerning this 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 or clinical psychologist. Eye examinations may be provided by a licensed ~~and certified therapeutic~~ optometrist. 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 the examination. Failure of any individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until such time as the individual submits to the examination if the Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Board finds an individual unable to practice because of the reasons set forth in this Section, the Board shall require such individual to submit to care, counseling, or treatment by physicians or clinical psychologists approved or designated by the Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice, or in lieu of care, counseling, or treatment, the Board may recommend to the Department to file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual, or the Board may recommend to the Department to file a complaint to suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act, or continued, reinstated, renewed, disciplined, or supervised, subject to such conditions, terms, or restrictions, who shall fail to comply with such conditions, terms, or restrictions, shall be referred to the Secretary ~~Director~~ for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Board.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary ~~Director~~ that the licensee be allowed to resume his or her practice.

(Source: P.A. 89-702, eff. 7-1-97; 90-230, eff. 1-1-98; 90-655, eff. 7-30-98; revised 12-15-05.)

(225 ILCS 80/25) (from Ch. 111, par. 3925)

(Section scheduled to be repealed on January 1, 2007)

Sec. 25. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license ~~or certificate~~ or deny the application, without hearing. If, after termination or denial, the person seeks a license ~~or certificate~~, he or she shall apply to the Department for restoration or issuance of the license ~~or certificate~~ and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license ~~or certificate~~ to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.1. Injunctions; criminal offenses; cease and desist orders.

(a) If any person violates the provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, or the State's Attorney of any county in which the action is brought, petition for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as an optometrist or hold himself or herself out as an optometrist without being licensed under the provisions of this Act then any licensed optometrist, any interested party or any person injured thereby may, in addition to the Secretary ~~Director~~, petition for relief as provided in subsection (a) of this Section.

Whoever knowingly practices or offers to practice optometry in this State without being licensed for that purpose shall be guilty of a Class A misdemeanor and for each subsequent conviction, shall be guilty of a Class 4 felony. Notwithstanding any other provision of this Act, all criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of the

Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Optometric Licensing and Disciplinary Board Fund ~~Professional Regulation Evidence Fund~~.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued forthwith.

(Source: P.A. 94-556, eff. 9-11-05.)

(225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.2. Investigation; notice. The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license. The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license ~~or certificate~~, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Board, direct him or her to file his or her written answer to the Board under oath within 20 days after the service on him or her of the notice and inform him or her that if he or she fails to file an answer default will be taken against him or her and his or her license ~~or certificate~~ may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, as the Department may deem proper taken with regard thereto. Such written notice may be served by personal delivery or certified delivery or certified or registered mail to the Department. In case the person fails to file an answer after receiving notice, his or her license ~~or certificate~~ may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to their defense. The Department may continue the hearing from time to time. At the discretion of the Secretary ~~Director~~ after having first received the recommendation of the Board, the accused person's license may be suspended, revoked, placed on probationary status, or whatever disciplinary action as the Secretary ~~Director~~ may deem proper, including limiting the scope, nature, or extent of said person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.5) (from Ch. 111, par. 3926.5)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.5. Subpoena; oaths. The Department shall have power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition or both, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State.

The Secretary ~~Director~~, the hearing officer and any member of the Board designated by the Secretary ~~Director~~ shall each have power to administer oaths to witnesses at any hearing which the Department is authorized to conduct under this Act, and any other oaths required or authorized to be administered by the Department hereunder.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.6. Findings of fact, conclusions of law, and recommendations. At the conclusion of the hearing the Board shall present to the Secretary ~~Director~~ a written report of its findings of fact, conclusions of law and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings of fact, conclusions of law and recommendations of the Board shall be the basis for the Department's order. If the Secretary ~~Director~~ disagrees in any regard with the report of the Board, the Secretary ~~Director~~ may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide

within 60 days of taking such action a written report to the Board on any such deviation, and shall specify with particularity the reasons for said action in the final order. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.7. Hearing officer. Notwithstanding the provisions of Section 26.6 of this Act, the Secretary ~~Director~~ shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for discipline of a license. The Secretary ~~Director~~ shall notify the Board of any such appointment. The hearing officer shall have full authority to conduct the hearing. The Board shall have the right to have at least one member present at any hearing conducted by such hearing officer. The hearing officer shall report his or her findings of fact, conclusions of law and recommendations to the Board and the Secretary ~~Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Secretary ~~Director~~. If the Board fails to present its report within the 60 day period, the Secretary ~~Director~~ shall issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ disagrees in any regard with the report of the Board or hearing officer, he or she may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide a written explanation to the Board on any such deviation, and shall specify with particularity the reasons for such action in the final order.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.8. Service of report; rehearing; order. In any case involving the discipline of a license, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial the Secretary ~~Director~~ may enter an order in accordance with this Act. If the respondent shall order from the reporting service, and pay for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.9) (from Ch. 111, par. 3926.9)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.9. Substantial justice; rehearing. Whenever the Secretary ~~Director~~ is satisfied that substantial justice has not been done in the revocation, suspension or refusal to issue or renew a license, the Secretary ~~Director~~ may order a rehearing by the same or another hearing officer or by the Board.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/26.10) (from Ch. 111, par. 3926.10)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.10. Order or certified copy as prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(a) the signature is the genuine signature of the Secretary ~~Director~~;

(b) the Secretary ~~Director~~ is duly appointed and qualified; and

(c) the Board and the members thereof are qualified to act.

(Source: P.A. 91-357, eff. 7-29-99.)

(225 ILCS 80/26.11) (from Ch. 111, par. 3926.11)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.11. At any time after the suspension or revocation of any license ~~or certificate~~ the Department may restore it to the accused person, unless after an investigation and a hearing, the Department determines that restoration is not in the public interest.
(Source: P.A. 85-896.)

(225 ILCS 80/26.12) (from Ch. 111, par. 3926.12)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.12. Upon the revocation or suspension of any license ~~or certificate~~, the licensee ~~or certificate~~

~~holder~~ shall forthwith surrender the license to the Department and if the licensee fails to do so, the Department shall have the right to seize the license ~~or certificate~~.
(Source: P.A. 85-896.)

(225 ILCS 80/26.13) (from Ch. 111, par. 3926.13)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.13. Temporary suspension. The Secretary ~~Director~~ may temporarily suspend the license ~~or certificate~~ of an optometrist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 26.2 of this Act, if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that continuation in practice would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ suspends, temporarily, this license ~~or certificate~~ without a hearing, a hearing by the Department must be held within 30 days after such suspension has occurred, and be concluded without appreciable delay.
(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 80/28) (from Ch. 111, par. 3928)

(Section scheduled to be repealed on January 1, 2007)

Sec. 28. It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly ~~director~~ or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.
(Source: P.A. 85-896.)

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 foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 2469**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Cullerton, **Senate Bill No. 2475**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Shadid, **Senate Bill No. 2489** was recalled from the order of third reading to the order of second reading.

Senator Shadid offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2489

AMENDMENT NO. 3. Amend Senate Bill 2489, AS AMENDED, in Section 5, Sec. 18c-7503, by replacing subsection (2.5) with the following:

"(2.5) Terminal security. The owner of a terminal is expressly authorized, within the terminal property, to construct and operate berms, commercially constructed electric fences, and monitoring equipment as security measures for reducing the economic impact of theft, enhancing homeland security, and improving the protection of the general public welfare. The terminal owner shall properly operate and maintain these security measures. Any electric fence installed pursuant to this subsection shall: (i) be marked with appropriate signs; (ii) be entirely surrounded at a distance of at least 36 inches by properly maintained non-electric perimeter fences at least 8 feet tall; (iii) operate at a level of current that is not lethal to a human being upon contact; (iv) be covered at all times by an insurance policy maintained by the operator of the terminal for liability from claims arising out of the operation of the fence in an amount not less than $10,000,000 per occurrence; and (v) be regularly monitored and inspected by a qualified electrician. The use of any of these security measures in accordance with this subsection is not a violation of this Sub-chapter."; and

in Section 5, Sec. 18c-7503, subsection (3), in the next-to-last paragraph, by replacing "facility, or other freight facility" with the following:

"facility where at least one mode of transportation serviced by the facility is a railroad, or other railroad freight facility".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Shadid, **Senate Bill No. 2489**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg
Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Silverstein, **Senate Bill No. 2558**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

Pending roll call on motion of Senator Silverstein, further consideration of **Senate Bill No. 2558** was postponed.

On motion of Senator Collins, **Senate Bill No. 2579**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Martinez	Sandoval
Axley	Geo-Karis	Meeks	Schoenberg

Bomke	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 2580**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Meeks	Schoenberg
Axley	Geo-Karis	Millner	Shadid
Bomke	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan
Collins	Hendon	Petka	Syverson
Cronin	Jacobs	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Demuzio	Luechtefeld	Roskam	
Dillard	Maloney	Rutherford	
Forby	Martinez	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 and ask their concurrence therein.

On motion of Senator Haine, **Senate Bill No. 2608**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Maloney	Rutherford
Axley	Geo-Karis	Martinez	Sandoval
Bomke	Haine	Meeks	Schoenberg
Burzynski	Halvorson	Millner	Shadid
Clayborne	Harmon	Munoz	Sieben
Collins	Hendon	Pankau	Silverstein
Crotty	Hunter	Petka	Sullivan
Cullerton	Jacobs	Radogno	Syverson
Dahl	Jones, J.	Raoul	Trotter
del Valle	Jones, W.	Rauschenberger	Viverito
DeLeo	Lauzen	Righter	Watson
Demuzio	Lightford	Risinger	Wilhelmi
Dillard	Link	Ronen	Mr. President
Forby	Luechtefeld	Roskam	

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 therein.

On motion of Senator Dillard, **Senate Bill No. 2617**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Burzynski	Harmon	Pankau	Silverstein
Clayborne	Hendon	Peterson	Sullivan
Collins	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2650** 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 TO SENATE BILL 2650

AMENDMENT NO. _2__. Amend Senate Bill 2650, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 11-605.1 as follows:

(625 ILCS 5/11-605.1)

Sec. 11-605.1. Special limit while traveling through a highway construction or maintenance speed zone.

(a) A person may not operate a motor vehicle in a construction or maintenance speed zone at a speed in excess of the posted speed limit.

(b) Nothing in this Chapter prohibits the use of electronic speed-detecting devices within 500 feet of signs within a construction or maintenance speed zone indicating the zone, as defined in this Section, nor shall evidence obtained by use of those devices be inadmissible in any prosecution for speeding, provided the use of the device shall apply only to the enforcement of the speed limit in the construction or maintenance speed zone.

(c) As used in this Section, a "construction or maintenance speed zone" is an area in which the Department, Toll Highway Authority, or local agency has determined that the preexisting established speed limit through a highway construction or maintenance project is greater than is reasonable or safe with respect to the conditions expected to exist in the construction or maintenance speed zone and has posted a lower speed limit with a highway construction or maintenance speed zone special speed limit sign.

Highway construction or maintenance speed zone special speed limit signs shall be of a design approved by the Department. The signs must give proper due warning that a construction or maintenance speed zone is being approached and must indicate the maximum speed limit in effect. The signs also must state the amount of the minimum fine for a violation.

(d) A first violation of this Section is a petty offense with a minimum fine of $250. A second or subsequent violation of this Section is a petty offense with a minimum fine of $750.

(e) If a fine for a violation of this Section is $250 or greater, the person who violated this Section shall be charged an additional $125, which shall be deposited into the Transportation Safety Highway Hire-back Fund in the State treasury, unless (i) the violation occurred on a highway other than an interstate highway and (ii) a county police officer wrote the ticket for the violation, in which case the $125 shall be deposited into that county's Transportation Safety Highway Hire-back Fund. In the case of a second or subsequent violation of this Section, if the fine is $750 or greater, the person who violated this Section shall be charged an additional $250, which shall be deposited into the Transportation Safety Highway Hire-back Fund in the State treasury, unless (i) the violation occurred on a highway other than an interstate highway and (ii) a county police officer wrote the ticket for the violation, in which case the $250 shall be deposited into that county's Transportation Safety Highway Hire-back Fund.

(e-5) The Department of State Police and the local county police department have concurrent jurisdiction over any violation of this Section that occurs on an interstate highway.

(f) The Transportation Safety Highway Hire-back Fund, which was created by Public Act 92-619, shall continue to be a special fund in the State treasury. Subject to appropriation by the General Assembly and approval by the Secretary, the Secretary of Transportation shall use all moneys in the Transportation Safety Highway Hire-back Fund to hire off-duty Department of State Police officers to monitor construction or maintenance zones.

(f-5) Each county shall create a Transportation Safety Highway Hire-back Fund. The county shall use all moneys in its Transportation Safety Highway Hire-back Fund to hire off-duty county police officers to monitor construction or maintenance zones in that county on highways other than interstate highways.

(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. (Source: P.A. 93-955, eff. 8-19-04.)".

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 OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2650**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Burzynski	Harmon	Pankau	Silverstein
Clayborne	Hendon	Peterson	Sullivan
Collins	Hunter	Petka	Syverson
Cronin	Jacobs	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Dillard	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

On motion of Senator Demuzio, **Senate Bill No. 2674**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 54; Nays 2.

The following voted in the affirmative:

Althoff	Dillard	Luechtefeld	Sandoval
Axley	Forby	Maloney	Schoenberg
Bomke	Garrett	Martinez	Shadid
Brady	Geo-Karis	Meeks	Sieben
Burzynski	Haine	Millner	Silverstein
Clayborne	Halvorson	Munoz	Sullivan
Collins	Harmon	Pankau	Syverson
Cronin	Hendon	Peterson	Trotter
Crotty	Hunter	Radogno	Viverito
Cullerton	Jacobs	Raoul	Watson
Dahl	Jones, J.	Righter	Wilhelmi
del Valle	Jones, W.	Risinger	Mr. President
DeLeo	Lightford	Ronen	
Demuzio	Link	Rutherford	

The following voted in the negative:

Petka
Roskam

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 therein.

On motion of Senator Silverstein, **Senate Bill No. 2676**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator del Valle, **Senate Bill No. 2684** 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 TO SENATE BILL 2684

AMENDMENT NO. 1. Amend Senate Bill 2684 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 18-1 as follows:

(720 ILCS 5/18-1) (from Ch. 38, par. 18-1)

Sec. 18-1. Robbery.

(a) A person commits robbery when he or she takes property, except a motor vehicle covered by Section 18-3 or 18-4, from the person or presence of another by the use of force or by threatening the imminent use of force.

(b) Sentence.

Robbery is a Class 2 felony. However, if the victim is 60 years of age or over or is a physically handicapped person, or if the robbery is committed in a school or place of worship or at an automatic

teller machine or for the purpose of acquiring the automatic teller machine card or identification number of another, robbery is a Class 1 felony.
(Source: P.A. 91-360, eff. 7-29-99.)

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 foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator del Valle, **Senate Bill No. 2684**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Link, **Senate Bill No. 2691**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 31; Nays 25; Present 2.

The following voted in the affirmative:

Axley	Geo-Karis	Millner	Schoenberg
Collins	Harmon	Munoz	Shadid
Crotty	Hendon	Pankau	Silverstein
Cullerton	Hunter	Peterson	Trotter
del Valle	Lightford	Raoul	Viverito

DeLeo	Link	Rauschenberger	Wilhelmi
Demuzio	Maloney	Roskam	Mr. President
Garrett	Martinez	Sandoval	

The following voted in the negative:

Althoff	Forby	Luechtefeld	Sieben
Bomke	Haine	Meeks	Sullivan
Brady	Halvorson	Petka	Syverson
Burzynski	Jacobs	Radogno	Watson
Clayborne	Jones, J.	Righter	
Cronin	Jones, W.	Risinger	
Dahl	Lauzen	Rutherford	

The following voted present:

Dillard
Ronen

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 therein.

SENATE BILL RECALLED

On motion of Senator Geo-Karis, **Senate Bill No. 2695** was recalled from the order of third reading to the order of second reading.

Senator Geo-Karis offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2695

AMENDMENT NO. 1. Amend Senate Bill 2695 on page 1, line 11 by inserting after the period the following:

"With the consent of the resident or his or her representative, the facility must inform the resident's designated case coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the resident's pending discharge and must provide the resident or his or her representative with the case coordination unit's telephone number and other contact information."; and

on page 1, by replacing lines 17 through 23 with the following:
"removal under Section 3-422.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Geo-Karis, **Senate Bill No. 2695**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Sullivan, **Senate Bill No. 2716** was recalled from the order of third reading to the order of second reading.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2716

AMENDMENT NO. 3. Amend Senate Bill 2716 on page 1, line 22, by replacing "Inspection Law" with "Regulation".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 2716**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Forby	Martinez	Sandoval
Axley	Garrett	Meeks	Schoenberg
Bomke	Geo-Karis	Millner	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, J.	Rauschenberger	Watson

Dahl	Jones, W.	Righter	Wilhelmi
del Valle	Lauzen	Risinger	Mr. President
DeLeo	Lightford	Ronen	
Demuzio	Link	Roskam	
Dillard	Luechtefeld	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Maloney asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 2716**.

On motion of Senator Maloney, **Senate Bill No. 2737**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Brady	Harmon	Pankau	Silverstein
Burzynski	Hendon	Peterson	Sullivan
Clayborne	Hunter	Petka	Syverson
Collins	Jacobs	Radogno	Trotter
Cronin	Jones, J.	Raoul	Viverito
Crotty	Jones, W.	Rauschenberger	Watson
Cullerton	Lauzen	Righter	Wilhelmi
Dahl	Lightford	Risinger	Mr. President
del Valle	Link	Ronen	
DeLeo	Luechtefeld	Roskam	
Forby	Maloney	Rutherford	
Garrett	Martinez	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 and ask their concurrence therein.

Senator Demuzio asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **Senate Bill No. 2737.**

SENATE BILL RECALLED

On motion of Senator Demuzio, **Senate Bill No. 2745** was recalled from the order of third reading to the order of second reading.

Senator Demuzio offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2745

AMENDMENT NO. 1. Amend Senate Bill 2745 on page 11, by replacing lines 5 and 6 with the following:

"vendor."; and

on page 16, line 12, by replacing "1993" with "2004"; and

on page 16, by replacing lines 18 through 26 with the following:
"data to the Department of State Police."; and

on page 56, line 10, by replacing "1993" with "2004 ~~1993~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Demuzio, **Senate Bill No. 2745**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Shadid, **Senate Bill No. 2795**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben

Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator del Valle, **Senate Bill No. 2796** 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. 2 TO SENATE BILL 2796

AMENDMENT NO. 2. Amend Senate Bill 2796, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 2, by replacing lines 6 through 8 with the following:
"language other than English is used, the State Board of Education~~, no later than September 1, 1993,~~ shall include in the rules"; and

on page 2, line 14, by replacing "(19)" with "(23)"; and

on page 4, line 11, after "made", by inserting "and the IEP meeting shall be completed"; and

on page 4, line 11, by replacing "~~school~~" with "school"; and

on page 4, by replacing line 15 with the following:
"instances when written parental consent is obtained ~~students are referred for evaluation~~ with fewer"; and

on page 4, line 17, after "made", by inserting "and the IEP meeting shall be completed"; and

on page 8, line 10, by replacing "federal law 108-142" with "the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) ~~federal law~~"; and

on page 8, lines 12 and 13, by replacing "federal law 108-142" with "the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) ~~federal law~~"; and

on page 23, line 13, after "Section", by inserting "or, if applicable, in the amended hearing request under subsection (g-15) of this Section"; and

on page 25, by replacing lines 10 through 14 with the following:
"part of the initial request, the applicable timeline for a hearing, including the timeline under subsection (g-20) of this Section, shall recommence."; and

on page 26, line 3, after "party", by inserting "and at least 7 days after ordering the non-cooperating party to cooperate"; and

on page 26, by replacing line 15 with the following:
"utilize the resolution meeting process, the process"; and

on page 26, lines 26, 28, 29, 31, and 33, by replacing "meeting" each time it appears with "process"; and

on page 27, lines 10 and 12, by replacing "meeting" each time it appears with "process"; and

on page 28, line 29, after "shown.", by inserting the following:
"The time limits in this subsection (g-55) shall not be applied in a manner that (i) denies any party to the hearing a fair and reasonable allocation of time and opportunity to present its case or (ii) deprives any party to the hearing of the safeguards accorded under the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446), regulations promulgated under the Individuals with Disabilities Education Improvement Act of 2004, or any other applicable law."; and

on page 30, line 8, after "and", by inserting, "send by certified".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator del Valle offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2796

AMENDMENT NO. 3. Amend Senate Bill 2796, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 2, by replacing line 7 with the following:
"Education~~, no later than September 1, 1993,~~ shall include in"; and

on page 2, line 13, by replacing "(19)" with "(23)"; and

on page 4, line 10, after "made", by inserting "and the IEP meeting shall be completed"; and

on page 4, line 10, by replacing "~~school~~" with "school"; and

on page 4, by replacing line 14 with the following:
"instances when written parental consent is obtained ~~students are referred for evaluation~~ with fewer"; and

on page 4, line 16, after "made", by inserting "and the IEP meeting shall be completed"; and

on page 8, line 9, by replacing "federal law 108-142" with "the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) ~~federal law~~"; and

on page 8, lines 11 and 12, by replacing "federal law 108-142" with "the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) ~~federal law~~"; and

on page 23, line 13, after "Section", by inserting "or, if applicable, in the amended hearing request under subsection (g-15) of this Section"; and

on page 25, by replacing lines 10 through 14 with the following:
"part of the initial request, the applicable timeline for a hearing, including the timeline under subsection (g-20) of this Section, shall recommence."; and

on page 26, line 3, after "party", by inserting "and at least 7 days after ordering the non-cooperating party to cooperate"; and

on page 26, by replacing line 15 with the following:
"utilize the resolution meeting process, the process"; and

on page 26, lines 26, 28, 29, 31, and 33, by replacing "meeting" each time it appears with "process"; and

on page 27, lines 10 and 12, by replacing "meeting" each time it appears with "process"; and

on page 28, line 29, after "shown.", by inserting the following:
"The time limits in this subsection (g-55) shall not be applied in a manner that (i) denies any party to the hearing a fair and reasonable allocation of time and opportunity to present its case or (ii) deprives any party to the hearing of the safeguards accorded under the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446), regulations promulgated under the Individuals with Disabilities Education Improvement Act of 2004, or any other applicable law."; and

on page 30, line 8, after "and", by inserting, "send by certified".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator del Valle, **Senate Bill No. 2796**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Bomke, **Senate Bill No. 2798** was recalled from the order of third reading to the order of second reading.

Senator Bomke offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2798

AMENDMENT NO. _2_. Amend Senate Bill 2798 by replacing everything after the enacting clause

with the following:

"Section 5. The Counties Code is amended by changing Section 5-25012 as follows:
(55 ILCS 5/5-25012) (from Ch. 34, par. 5-25012)

Sec. 5-25012. Board of health. Except in those cases where a board of 12 members is provided for as authorized in this Section, each county health department shall be managed by a board of health consisting of 8 members appointed by the president or chairman of the county board, with the approval of the county board, for a 3 year term, except that of the first appointees 2 shall serve for one year, 2 for 2 years, 3 for 3 years and the term of the member appointed from the county board, as provided in this Section, shall be one year and shall continue until reappointment or until a successor is appointed. Each board of health which has 8 members, may have one additional member appointed by the president or chairman of the county board, with the approval of the county board. The additional member shall first be appointed within 90 days after the effective date of this amendatory Act for a term ending July 1, 2002.

The county health department in a county having a population of 180,000 ~~200,000~~ or more may, if the county board, by resolution, so provides, be managed by a board of health consisting of 12 members appointed by the president or chairman of the county board, with the approval of the county board, for a 3 year term, except that of the first appointees 3 shall serve for one year, 4 for 2 years, 4 for 3 years and the term of the member appointed from the county board, as provided in this Section, shall be one year and shall continue until reappointment or until a successor is appointed. In counties with a population of 180,000 ~~200,000~~ or more which have a board of health of 8 members, the county board may, by resolution, increase the size of the board of health to 12 members, in which case the 4 members added shall be appointed, as of the next anniversary of the present appointments, 2 for terms of 3 years, one for 2 years and one for one year.

The county board in counties with a population of more than 100,000 but less than 3,000,000 inhabitants and contiguous to any county with a metropolitan area with more than 1,000,000 inhabitants, may establish compensation for the board of health, as remuneration for their services as members of the board of health. Monthly compensation shall not exceed $200 except in the case of the president of the board of health whose monthly compensation shall not exceed $400.

Each multiple-county health department shall be managed by a board of health consisting of 4 members appointed from each county by the president or chairman of the county board with the approval of the county board for a 3 year term, except that of the first appointees from each county one shall serve for one year, one for 2 years, one for 3 years and the term of the member appointed from the county board of each member county, as hereinafter provided, shall be one year and shall continue until reappointment or until a successor is appointed.

The term of office of original appointees shall begin on July 1 following their appointment, and the term of all members shall continue until their successors are appointed. All members shall serve without compensation but may be reimbursed for actual necessary expenses incurred in the performance of their duties. At least 2 members of each county board of health shall be physicians licensed in Illinois to practice medicine in all of its branches and at least one member shall be a dentist licensed in Illinois. In counties with a population under 500,000, one member shall be chosen from the county board or the board of county commissioners as the case may be. In counties with a population over 500,000, two members shall be chosen from the county board or the board of county commissioners as the case may be. At least one member from each county on each multiple-county board of health shall be a physician licensed in Illinois to practice medicine in all of its branches, one member from each county on each multiple-county board of health shall be chosen from the county board or the board of county commissioners, as the case may be, and at least one member of the board of health shall be a dentist licensed in Illinois. Whenever possible, at least one member shall have experience in the field of mental health. All members shall be chosen for their special fitness for membership on the board.

Any member may be removed for misconduct or neglect of duty by the chairman or president of the county board, with the approval of the county board, of the county which appointed him.

Vacancies shall be filled as in the case of appointment for a full term.

Notwithstanding any other provision of this Act to the contrary, a county with a population of 240,000 or more inhabitants that does not currently have a county health department may, by resolution of the county board, establish a board of health consisting of the members of such board. Such board of health shall be advised by a committee which shall consist of at least 5 members appointed by the president or chairman of the county board with the approval of the county board for terms of 3 years; except that of the first appointees at least 2 shall serve for 3 years, at least 2 shall serve for 2 years and at least one shall serve for one year. At least one member of the advisory committee shall be a physician licensed in

Illinois to practice medicine in all its branches, at least one shall be a dentist licensed in Illinois, and one shall be a nurse licensed in Illinois. All members shall be chosen for their special fitness for membership on the advisory committee.

All members of a board established under this Section must be residents of the county, except that a member who is required to be a physician, dentist, or nurse may reside outside the county if no physician, dentist, or nurse, as applicable, who resides in the county is willing and able to serve.
(Source: P.A. 94-457, eff. 1-1-06.)".

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Bomke, **Senate Bill No. 2798**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 2807** 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. 2 TO SENATE BILL 2807

AMENDMENT NO. _2__. Amend Senate Bill 2807, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 3-105, 3-121, and 19-105 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 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. the following natural gas cooperatives:

(A) 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; and

(B) natural gas cooperatives that are not-for-profit corporations operated for the purpose of administering, on a cooperative basis, the furnishing of natural gas for the benefit of their members and that, prior to 90 days after the effective date of this amendatory Act of the 94th General Assembly, either had acquired or had entered into an asset purchase agreement to acquire all or substantially all of the operating assets of a public utility or natural gas cooperative with the intention of operating those assets as a natural gas cooperative;

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.

(Source: P.A. 89-42, eff. 1-1-96; 90-561, eff. 12-16-97.)

(220 ILCS 5/3-121) (from Ch. 111 2/3, par. 3-121)

Sec. 3-121. As used in Section 2-202 of this Act, the term "gross revenue" includes all revenue which (1) is collected by a public utility subject to regulations under this Act (a) pursuant to the rates, other charges, and classifications which it is required to file under Section 9-102 of this Act and (b) pursuant to emergency rates as permitted by Section 9-104 of this Act, and (2) is derived from the intrastate public utility business of such a utility. Such term does not include revenue derived by such a public utility from the sale of public utility services, products or commodities to another public utility, ~~or~~ to an electric cooperative , or to a natural gas cooperative for resale by such public utility, ~~or~~ electric

cooperative , or natural gas cooperative. "Gross revenue" shall not include any charges added to customers' bills pursuant to the provisions of Section 9-221, 9-221.1 and 9-222 of this Act or consideration received from business enterprises certified under Section 9-222.1 of this Act to the extent of such exemption and during the period in which the exemption is in effect.
(Source: P.A. 85-1021.)

(220 ILCS 5/19-105)

Sec. 19-105. Definitions. For the purposes of this Article, the following terms shall be defined as set forth in this Section.

"Alternative gas supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers gas for sale, lease, or in exchange for other value received to one or more customers, or that engages in the furnishing of gas to one or more customers, and shall include affiliated interests of a gas utility, resellers, aggregators and marketers, but shall not include (i) gas utilities (or any agent of the gas utility to the extent the gas utility provides tariffed services to customers through an agent); (ii) 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 by a political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents; (iii) ~~residential~~ natural gas cooperatives that are not-for-profit corporations operated ~~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; and (iv) 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.

"Gas utility" means a public utility, as defined in Section 3-105 of this Act, that has a franchise, license, permit, or right to furnish or sell gas or transportation services to customers within a service area.

"Residential customer" means a customer who receives gas utility service for household purposes distributed to a dwelling of 2 or fewer units which is billed under a residential rate or gas utility service for household purposes distributed to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit.

"Service area" means (i) the geographic area within which a gas utility was lawfully entitled to provide gas to customers as of the effective date of this amendatory Act of the 92nd General Assembly and includes (ii) the location of any customer to which the gas utility was lawfully providing gas utility services on such effective date.

"Small commercial customer" means a nonresidential retail customer of a natural gas utility who is identified by the alternative gas supplier, prior to becoming a customer of the alternative gas supplier, as consuming 5,000 or fewer therms of natural gas during the previous year; provided that any alternative gas supplier may remove the customer from designation as a "small commercial customer" if the customer consumes more than 5,000 therms of natural gas in any calendar year after becoming a customer of the alternative gas supplier.

"Tariffed service" means a service provided to customers by a gas utility as defined by its rates on file with the Commission pursuant to the provisions of Article IX of this Act.

"Transportation services" means those services provided by the gas utility that are necessary in order for the storage, transmission and distribution systems to function so that customers located in the gas utility's service area can receive gas from suppliers other than the gas utility and shall include, without limitation, standard metering and billing services.
(Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

Section 15. The General Not For Profit Corporation Act of 1986 is amended by changing Section 103.05 as follows:

(805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

Sec. 103.05. Purposes and authority of corporations; particular purposes; exemptions.

(a) Not-for-profit corporations may be organized under this Act for any one or more of the following or similar purposes:

(1) Charitable.

(2) Benevolent.

(3) Eleemosynary.

(4) Educational.

(5) Civic.

(6) Patriotic.
(7) Political.
(8) Religious.
(9) Social.
(10) Literary.
(11) Athletic.
(12) Scientific.
(13) Research.
(14) Agricultural.
(15) Horticultural.
(16) Soil improvement.
(17) Crop improvement.
(18) Livestock or poultry improvement.
(19) Professional, commercial, industrial, or trade association.
(20) Promoting the development, establishment, or expansion of industries.
(21) Electrification on a cooperative basis.
(22) Telephone service on a mutual or cooperative basis.
(23) Ownership and operation of water supply facilities for drinking and general domestic use on a mutual or cooperative basis.
(24) Ownership or administration of residential property on a cooperative basis.
(25) Administration and operation of property owned on a condominium basis or by a homeowner association.
(26) Administration and operation of an organization on a cooperative basis producing or furnishing goods, services, or facilities primarily for the benefit of its members who are consumers of those goods, services, or facilities.
(27) Operation of a community mental health board or center organized pursuant to the Community Mental Health Act for the purpose of providing direct patient services.
(28) Provision of debt management services as authorized by the Debt Management Service Act.
(29) Promotion, operation, and administration of a ridesharing arrangement as defined in Section 1-176.1 of the Illinois Vehicle Code.
(30) The administration and operation of an organization for the purpose of assisting low-income consumers in the acquisition of utility and telephone services.
(31) Any purpose permitted to be exempt from taxation under Sections 501(c) or 501(d) of the United States Internal Revenue Code, as now in or hereafter amended.
(32) Any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code, as now or hereafter amended. Any such purpose is deemed to be charitable under subsection (a)(1) of this Section.
(33) Furnishing of natural gas on a cooperative basis.

(b) A corporation may be organized hereunder to serve in an area that adjoins or borders (except for any intervening natural watercourse) an area located in an adjoining state intended to be similarly served, and the corporation may join any corporation created by the adjoining state having an identical purpose and organized as a not-for-profit corporation. Whenever any corporation organized under this Act so joins with a foreign corporation having an identical purpose, the corporation shall be permitted to do business in Illinois as one corporation; provided (1) that the name, bylaw provisions, officers, and directors of each corporation are identical, (2) that the foreign corporation complies with the provisions of this Act relating to the admission of foreign corporation, and (3) that the Illinois corporation files a statement with the Secretary of State indicating that it has joined with a foreign corporation setting forth the name thereof and the state of its incorporation.
(Source: P.A. 92-33, 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.

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 2807**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 2808** 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. 2 TO SENATE BILL 2808

AMENDMENT NO. 2. Amend Senate Bill 2808 on page 1, line 5, after "4-207,", by inserting "4-213, 11-402, 11-404,"; and

on page 8, immediately below line 12, by inserting the following:

"(625 ILCS 5/4-213) (from Ch. 95 1/2, par. 4-213)

Sec. 4-213. Liability of law enforcement officers, agencies, and towing services.

(a) A law enforcement officer or agency, a department of municipal government designated under Section 4-212.1 or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Chapter.

(b) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents (i) on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation or (ii) at the direction of a peace officer, a highway authority official, or a representative of local authorities, under Section 11-402

or 11-404 of this Code.
(Source: P.A. 89-433, eff. 12-15-95.)

(625 ILCS 5/11-402) (from Ch. 95 1/2, par. 11-402)

Sec. 11-402. Motor vehicle accident involving damage to vehicle.

(a) The driver of any vehicle involved in a motor vehicle accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such motor vehicle accident or as close thereto as possible, but shall forthwith return to and in every event shall remain at the scene of such motor vehicle accident until the requirements of Section 11-403 have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary. If a damaged vehicle is obstructing traffic lanes, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the traffic lanes.

Any person failing to comply with this Section shall be guilty of a Class A misdemeanor.

(b) Upon conviction of a violation of this Section, the court shall make a finding as to whether the damage to a vehicle is in excess of $1,000, and in such case a statement of this finding shall be reported to the Secretary of State with the report of conviction as required by Section 6-204 of this Code. Upon receipt of such report of conviction and statement of finding that the damage to a vehicle is in excess of $1,000, the Secretary of State shall suspend the driver's license or any nonresident's driving privilege.

(c) If any peace officer or highway authority official finds (i) a vehicle standing upon a highway or toll highway in violation of a prohibition, limitation, or restriction on stopping, standing, or parking imposed under this Code or (ii) a disabled vehicle that obstructs the roadway of a highway or toll highway, the peace officer or highway authority official is authorized to move the vehicle or to require the operator of the vehicle to move the vehicle to the shoulder of the road, to a position where parking is permitted, or to public parking or storage premises. The removal may be performed by, or under the direction of, the peace officer or highway authority official or may be contracted for by local authorities. After the vehicle has been removed, the peace officer or highway authority official shall follow appropriate procedures, as provided in Section 4-203 of this Code.

(d) A towing service, its officers, and its employees are not liable for injury to, loss of, or damages to any real or personal property that occurs as the result of the removal or towing of any vehicle under subsection (c), as provided in subsection (b) of Section 4-213.
(Source: P.A. 83-831.)

(625 ILCS 5/11-404) (from Ch. 95 1/2, par. 11-404)

Sec. 11-404. Duty upon damaging unattended vehicle or other property.

(a) The driver of any vehicle which collides with or is involved in a motor vehicle accident with any vehicle which is unattended, or other property, resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of the driver's name, address, registration number and owner of the vehicle the driver was operating or shall attach securely in a conspicuous place on or in the vehicle or other property struck a written notice giving the driver's name, address, registration number and owner of the vehicle the driver was driving and shall without unnecessary delay notify the nearest office of a duly authorized police authority and shall make a written report of such accident when and as required in Section 11-406. Every such stop shall be made without obstructing traffic more than is necessary. If a damaged vehicle is obstructing traffic lanes, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the traffic lanes.

(b) Any person failing to comply with this Section shall be guilty of a Class A misdemeanor.

(c) If any peace officer or highway authority official finds (i) a vehicle standing upon a highway or toll highway in violation of a prohibition, limitation, or restriction on stopping, standing, or parking imposed under this Code or (ii) a disabled vehicle that obstructs the roadway of a highway or toll highway, the peace officer or highway authority official is authorized to move the vehicle or to require the operator of the vehicle to move the vehicle to the shoulder of the road, to a position where parking is permitted, or to public parking or storage premises. The removal may be performed by, or under the direction of, the peace officer or highway authority official or may be contracted for by local authorities. After the vehicle has been removed, the peace officer or highway authority official shall follow appropriate procedures, as provided in Section 4-203 of this Code.

(d) A towing service, its officers, and its employees are not liable for injury to, loss of, or damages to any real or personal property that occurs as the result of the removal or towing of any vehicle under subsection (c), as provided in subsection (b) of Section 4-213.
(Source: P.A. 83-831.)".

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 2808**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Forby, **Senate Bill No. 2810** was recalled from the order of third reading to the order of second reading.

Senator Forby offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2810

AMENDMENT NO. 2. Amend Senate Bill 2810 by replacing everything after the enacting clause with the following:

"Section 5. The Wildlife Code is amended by changing Section 2.25 as follows:

(520 ILCS 5/2.25) (from Ch. 61, par. 2.25)

Sec. 2.25. It shall be unlawful for any person to take deer except (i) with a shotgun, handgun, or muzzleloading rifle or (ii) as provided by administrative rule, with a bow and arrow, or crossbow device for handicapped persons as defined in Section 2.33, during the open season of not more than 14 days which will be set annually by the Director between the dates of November 1st and December 31st, both inclusive. For the purposes of this Section, legal handguns include any centerfire handguns of .30 caliber or larger with a minimum barrel length of 4 inches. The only legal ammunition for a centerfire handgun is a cartridge of .30 caliber or larger with a capability of at least 500 foot pounds of energy at the muzzle. Full metal jacket bullets may not be used to harvest deer.

The Department shall make administrative rules concerning management restrictions applicable to the

firearm and bow and arrow season.

It shall be unlawful for any person to take deer except with a bow and arrow, or crossbow device for handicapped persons (as defined in Section 2.33), during the open season for bow and arrow set annually by the Director between the dates of September 1st and January 31st, both inclusive.

It shall be unlawful for any person to take deer except with (i) a muzzleloading rifle, or (ii) bow and arrow, or crossbow device for handicapped persons as defined in Section 2.33, during the open season for muzzleloading rifles set annually by the Director.

The Director shall cause an administrative rule setting forth the prescribed rules and regulations, including bag and possession limits and those counties of the State where open seasons are established, to be published in accordance with Sections 1.3 and 1.13 of this Act.

The Department may establish separate harvest periods for the purpose of managing or eradicating disease that has been found in the deer herd. This season shall be restricted to gun or bow and arrow hunting only. The Department shall publicly announce, via statewide news release, the season dates and shooting hours, the counties and sites open to hunting, permit requirements, application dates, hunting rules, legal weapons, and reporting requirements.

The Department is authorized to establish a separate harvest period at specific sites within the State for the purpose of harvesting surplus deer that cannot be taken during the regular season provided for the taking of deer. This season shall be restricted to gun or bow and arrow hunting only and shall be established during the period of September 1st to February 15th, both inclusive. The Department shall publish suitable prescribed rules and regulations established by administrative rule pertaining to management restrictions applicable to this special harvest program. The Department shall allow unused gun deer permits that are left over from a regular season for the taking of deer to be rolled over and used during any separate harvest period held within 6 months of the season for which those tags were issued at no additional cost to the permit holder subject to the management restrictions applicable to the special harvest program.

(Source: P.A. 93-37, eff. 6-25-03; 93-554, eff. 8-20-03; revised 9-15-03.)".

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 foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Forby, **Senate Bill No. 2810**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Sandoval
Axley	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Millner	Sieben
Burzynski	Halvorson	Munoz	Silverstein
Clayborne	Harmon	Pankau	Sullivan
Collins	Hendon	Peterson	Syverson
Cronin	Hunter	Petka	Trotter
Crotty	Jacobs	Radogno	Viverito
Cullerton	Jones, J.	Rauschenberger	Watson
Dahl	Jones, W.	Righter	Wilhelmi
del Valle	Lauzen	Risinger	Mr. President
DeLeo	Lightford	Ronen	

Demuzio	Link	Roskam	
Dillard	Luechtefeld	Rutherford	

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Lightford, **Senate Bill No. 2829**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Munoz, **Senate Bill No. 2869**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito

Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Harmon, **Senate Bill No. 2871**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 42; Nays 11; Present 1.

The following voted in the affirmative:

Althoff	Forby	Maloney	Sandoval
Axley	Garrett	Martinez	Schoenberg
Bomke	Haine	Meeks	Shadid
Clayborne	Halvorson	Millner	Sieben
Collins	Harmon	Munoz	Silverstein
Cronin	Hendon	Pankau	Sullivan
Crotty	Hunter	Peterson	Trotter
Cullerton	Jacobs	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Mr. President
del Valle	Lightford	Ronen	
DeLeo	Link	Roskam	

The following voted in the negative:

Brady	Geo-Karis	Petka	Rutherford
Burzynski	Jones, J.	Radogno	Watson
Dillard	Lauzen	Righter	

The following voted present:

Risinger

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

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2872** 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 TO SENATE BILL 2872

AMENDMENT NO. 1. Amend Senate Bill 2872 on page 2, by replacing lines 5 through 8 with the following:

"(2) The property, including dedicated public property, is used by a municipality or other unit of

local government for the purpose of parking or for waste disposal or processing and is leased for continued use for the same purpose to another entity whose property is not exempt.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2872

AMENDMENT NO. 2. Amend Senate Bill 2872, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 1, line 6, by changing "parking" to "an airport or parking"; and

on page 1, line 8, by replacing "exempt." with the following:

"exempt. For the purpose of this item (2), "airport" does not include any airport property, as defined under Section 10 of the O'Hare Modernization Act.

Any transaction described under item (2) of this subsection must be undertaken in accordance with all appropriate federal laws and regulations.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2872**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Sandoval, **Senate Bill No. 2878**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Sullivan
Collins	Hendon	Peterson	Syverson
Cronin	Hunter	Petka	Trotter
Crotty	Jacobs	Radogno	Viverito
Cullerton	Jones, J.	Raoul	Watson
Dahl	Jones, W.	Rauschenberger	Wilhelmi
del Valle	Lauzen	Righter	Mr. President
DeLeo	Lightford	Risinger	
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Link, **Senate Bill No. 2882**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 34; Nays 22; Present 2.

The following voted in the affirmative:

Axley	Garrett	Link	Shadid
Clayborne	Geo-Karis	Maloney	Silverstein
Collins	Haine	Martinez	Sullivan
Crotty	Halvorson	Meeks	Trotter
Cullerton	Harmon	Munoz	Viverito
del Valle	Hendon	Raoul	Wilhelmi
DeLeo	Hunter	Ronen	Mr. President
Demuzio	Jacobs	Sandoval	
Forby	Lightford	Schoenberg	

The following voted in the negative:

Althoff	Jones, J.	Peterson	Rutherford
Bomke	Jones, W.	Petka	Sieben
Brady	Lauzen	Radogno	Syverson
Burzynski	Luechtefeld	Rauschenberger	Watson
Cronin	Millner	Righter	
Dahl	Pankau	Risinger	

The following voted present:

Dillard
Roskam

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 therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 2884** was recalled from the order of third reading to the order of second reading.

Senators Link - Millner offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2884

AMENDMENT NO. 1. Amend Senate Bill 2884 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Mercury Switch Removal Act.

Section 3. Legislative findings. The General Assembly finds:

(a) That switches containing mercury have been used for convenience lighting and anti-lock braking systems in vehicles sold in the State of Illinois.

(b) That mercury from the switches may be released into the environment when end-of-life vehicles are flattened, crushed, baled, shredded, melted, or otherwise processed for recycling.

(c) That removing mercury switches from end-of-life vehicles is an effective way to prevent mercury from being released into the environment.

(d) That it is in the public interest of the residents of the State of Illinois to reduce the quantity of mercury entering the environment by removing mercury switches from end-of-life vehicles.

Section 5. Definitions. For the purposes of this Act:

"Agency" means the Environmental Protection Agency.

"Capture rate" means the number of convenience light mercury switches removed from end-of-life vehicles prior to the vehicle being flattened, crushed, baled, shredded, or otherwise processed for recycling as a percentage of the total number of convenience light mercury switches available for removal from end-of-life vehicles that are flattened, crushed, shredded, or otherwise processed for recycling.

"End-of-life vehicle" means any vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap metal recycler for the purpose of resale of its parts or recycling.

"Manufacturer" means a person who is the last person in the production or assembly process of a new motor vehicle that uses one or more mercury switches or, in the case of an imported vehicle, the importer or domestic distributor of the vehicle. "Manufacturer" does not include any person engaged in the business of selling new motor vehicles at retail or converting or modifying new motor vehicles after the production or assembly process.

"Mercury switch" means each mercury-containing capsule or mercury-containing switch assembly that is part of a convenience light switch assembly or part of an anti-lock braking system assembly installed in a vehicle. An anti-lock braking system assembly may contain more than one mercury switch.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent, or assigns.

"Scrap metal recycler" means a person who engages in the business of shredding or otherwise processing end-of-life vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.

"Vehicle" means "motor vehicle" as that term is defined in the Illinois Vehicle Code, but excluding second division vehicles weighing more than 8,000 pounds.

"Vehicle crusher" means a person, other than a vehicle recycler or a scrap metal recycler, who

engages in the business of flattening, crushing, or otherwise processing end-of-life vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush end-of-life vehicles for a vehicle recycler or a scrap recycler.

"Vehicle recycler" means a person who engages in the business of acquiring, dismantling, removing parts from, or destroying 6 or more end-of-life vehicles in a calendar year for the primary purpose of reselling the vehicle parts.

Section 10. Removal requirements.

(a) Mercury switches removed from end-of-life vehicles must be managed in accordance with the Environmental Protection Act and regulations adopted thereunder.

(b) No person shall represent that all mercury switches have been removed from a vehicle if all mercury switches have not been removed from the vehicle, except where a mercury switch cannot be removed from the vehicle because the switch is inaccessible due to significant damage to the vehicle in the area surrounding the switch.

(c) Consistent with the protection of confidential business information, vehicle recyclers, vehicle crushers, and scrap metal recyclers that remove mercury switches from end-of-life vehicles must maintain records documenting the following for each calendar quarter:

(1) the number of mercury switches the vehicle recycler, vehicle crusher, or scrap metal recycler removed from end-of-life vehicles;

(2) the number of end-of-life vehicles received by the vehicle recycler, vehicle crusher, or scrap metal recycler that contain one or more mercury switches;

(3) the number of end-of-life vehicles the vehicle recycler, vehicle crusher, or scrap metal recycler flattened, crushed, shredded, or otherwise processed for recycling; and

(4) the make and model of each car from which one or more mercury switches was removed by the vehicle recycler, vehicle crusher, or scrap metal recycler.

The records required under this subsection (c) must be retained at the vehicle recycler's or scrap metal recycler's place of business for a minimum of 3 years and made available for inspection and copying by the Agency during normal business hours.

(d) For the period of July 1, 2006 though June 30, 2007 and for each period of July 1 though June 30 thereafter, no later than 45 days after the close of the period vehicle recyclers, vehicle crushers, and scrap metal recyclers that remove mercury switches from end-of-life vehicles must submit to the Agency an annual report containing the following information for the period: (i) the number of mercury switches the vehicle recycler, vehicle crusher, or scrap metal recycler removed from end-of-life vehicles; (ii) the number of end-of-life vehicles received by the vehicle recycler, vehicle crusher, or scrap metal recycler that contain one or more mercury switches, and (iii) the number of end-of-life vehicles the vehicle recycler, vehicle crusher, or scrap metal recycler flattened, crushed, shredded, or otherwise processed for recycling. Data required to be reported to the United State Environmental Protection Agency under federal law or regulation may be used in meeting requirements of this subsection (d), if the data contains the information required under items (i), (ii), and (iii) of this subsection.

Section 15. Mercury switch collection programs.

(a) Within 60 days of the effective date of this Act, manufacturers of vehicles in Illinois that contain mercury switches must begin to implement a mercury switch collection program that facilitates the removal of mercury switches from end-of-life vehicles prior to the vehicles being flattened, crushed, shredded, or otherwise processed for recycling and to collect and properly manage mercury switches in accordance with the Environmental Protection Act and regulations adopted thereunder. In order to ensure that the mercury switches are removed and collected in a safe and consistent manner, manufacturers must, to the extent practicable, use the currently available end-of-life vehicle recycling infrastructure. The collection program must be designed to achieve capture rates of not less than (i) 35% for the period of July 1, 2006, through June 30, 2007; (ii) 50% for the period of July 1, 2007, through June 30, 2008; and (iii) 70% for the period of July 1, 2008, through June 30, 2009 and for each subsequent period of July 1 through June 30. At a minimum, the collection program must:

(1) Develop and provide educational materials that include guidance as to which vehicles may contain mercury switches and procedures for locating and removing mercury switches. The materials may include, but are not limited to, brochures, fact sheets, and videos.

(2) Conduct outreach activities to encourage vehicle recyclers and vehicle crushers to participate in the mercury switch collection program. The activities may include, but are

not limited to, direct mailings, workshops, and site visits.

(3) Provide storage containers to participating vehicle recyclers and vehicle crushers for mercury switches removed under the program.

(4) Provide a collection and transportation system to periodically collect and replace filled storage containers from vehicle recyclers, vehicle crushers, and scrap metal recyclers, either upon notification that a storage container is full or on a schedule predetermined by the manufacturers.

(5) Establish an entity that will serve as a point of contact for the collection program and that will establish, implement, and oversee the collection program on behalf of the manufacturers.

(6) Track participation in the collection program and the progress of mercury switch removals and collections.

(b) Within 90 days of the effective date of this Act, manufacturers of vehicles in Illinois that contain mercury switches must submit to the Agency an implementation plan that describes how the collection program under subsection (a) of this Section will be carried out for the duration of the program and how the program will achieve the capture rates set forth in subsection (a) of this Section. At a minimum, the implementation plan must:

(A) Identify the educational materials that will assist vehicle recyclers, vehicle crushers, and scrap metal processors in identifying, removing, and properly managing mercury switches removed from end-of-life vehicles.

(B) Describe the outreach program that will be undertaken to encourage vehicle recyclers and vehicle crushers to participate in the mercury switch collection program.

(C) Describe how the manufacturers will ensure that mercury switches removed from end-of-life vehicles are managed in accordance with the Illinois Environmental Protection Act and regulations adopted thereunder.

(D) Describe how the manufacturers will collect and document the information required in the quarterly reports submitted pursuant to subsection (e) of this Section.

(E) Describe how the collection program will be financed and implemented.

(F) Identify the manufacturer's address to which the Agency should send the notice required under subsection (f) of this Section.

The Agency shall review the collection program plans it receives for completeness and shall notify the manufacturer in writing if a plan is incomplete. Within 30 days after receiving a notification of incompleteness from the Agency the manufacturer shall submit to the Agency a plan that contains all of the required information.

(c) The Agency must provide assistance to manufacturers in their implementation of the collection program required under this Section. The assistance shall include providing manufacturers with information about businesses likely to be engaged in vehicle recycling or vehicle crushing, conducting site visits to promote participation in the collection program, and assisting with the scheduling, locating, and staffing of workshops conducted to encourage vehicle recyclers and vehicle crushers to participate in the collection program.

(d) Manufacturers subject to the collection program requirements of this Section shall provide, to the extent practicable, the opportunity for trade associations of vehicle recyclers, vehicle crushers, and scrap metal recyclers to be involved in the delivery and dissemination of educational materials regarding the identification, removal, collection, and proper management of mercury switches in end-of-life vehicles.

(e) For the calendar quarter ending March 31, 2007, and for each calendar quarter thereafter, not later than 45 days following the close of the calendar quarter manufacturers subject to the collection program requirements of this Section must submit to the Agency a quarterly report that contains the following information: (i) the number of vehicle recyclers, vehicle crushers, and scrap metal recyclers participating in the manufacturer's collection program during the reported quarter, (ii) the number of mercury switches removed from end-of-life vehicles during the reported quarter by the vehicle recyclers, vehicle crushers, and scrap metal recyclers participating in the program, and (iii) the amount of mercury collected and recycled through the manufacturer's collection program during the reported calendar quarter.

(f) If the reports required under this Act indicate that the capture rates set forth in Subsection (a) of this Section for the period of July 1, 2007, though June 30, 2008, or for any subsequent period have not been met the Agency shall provide notice that the capture rate was not met; provided, however, that the Agency is not required to provide notice if it determines that the capture rate was not met due to a force majeure. The Agency shall provide the notice by posting a statement on its website and by sending a written notice via certified mail to the manufacturers subject

to the collection program requirement of this Section at the addresses provided in the manufacturers' collection plans. Once the Agency provides notice pursuant to this subsection (f) it is not required to provide notice in subsequent periods in which the capture rate is not met.

(g) Beginning 30 days after the Agency first provides notice pursuant to subsection (f) of this Section, the following shall apply:

(1) Vehicle recyclers must remove all mercury switches from end-of-life vehicles prior to delivering the vehicles to an on-site or off-site vehicle crusher or to a scrap metal recycler, provided that a vehicle recycler is not required to remove a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred prior to the vehicle recycler's receipt of the vehicle in which case the damage must be noted in the records the vehicle recycler is required to maintain under Section 10(c) of this Act.

(2) No vehicle recycler, vehicle crusher, or scrap metal recycler shall flatten, crush, or otherwise process an end-of-life vehicle for recycling unless all mercury switches have been removed from the vehicle, provided that a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred prior to the vehicle recycler's or the vehicle crusher's receipt of the vehicle is not required to be removed. The damage must be noted in the records the vehicle recycler or vehicle crusher is required to maintain under Section 10(c) of this Act.

(3) Notwithstanding subsection (g)(1) of this Section, a scrap metal recycler may agree to accept an end-of-life vehicle that contains one or more mercury switches and that has not been flattened, crushed, shredded, or otherwise processed for recycling provided the scrap metal recycler removes all mercury switches from the vehicle before the vehicle is flattened, crushed, shredded, or otherwise processed for recycling. Scrap metal recyclers are not required to remove a mercury switch that is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch that occurred prior to the scrap metal recycler's receipt of the vehicle. The damage must be noted in the records the scrap metal recycler is required to maintain under Section 10(c) of this Act.

(4) Manufacturers subject to the collection program requirements of this Section must provide to vehicle recyclers, vehicle crushers, and scrap metal recyclers the following compensation for all mercury switches removed from end-of-life vehicles on or after the date of the notice: $2.00 for each mercury switch removed by the vehicle recycler, vehicle crusher, or the scrap metal recycler, the costs of the containers in which the mercury switches are collected, and the costs of packaging and transporting the mercury switches off-site. Payment of this compensation must be provided in a prompt manner.

(h) In meeting the requirements of this Section manufacturers may work individually or as part of a group of 2 or more manufacturers.

Section 20. Evaluation. At the end of calendar year 2007, and at the end of each year thereafter through calendar year 2016, the Agency shall meet with manufacturers subject to the collection program requirements of Section 15 of this Act to review the performance of the manufacturers' mercury switch collection program, provided that the manufacturers must request such a meeting. If the program is not accomplishing the objectives set forth in the implementation plan the Agency may recommend modifications to the program or recommend the investigation of additional methods to promote the removal, collection, and proper management of mercury switches from end-of-life vehicles.

Section 25. Agency recommendations. Every 3 years the Agency shall make a recommendation to the General Assembly as to whether the $2 fee required under Section 15 of this Act should be modified to ensure adequate compensation for the removal of mercury switches from end-of-life vehicles. In developing its recommendations, the Agency shall seek comments or information from interested persons, including, but not limited to, representatives of vehicle recyclers, scrap metal recyclers, vehicle manufacturers, steel and iron manufacturers, and environmental groups.

Section 30. All information required to be submitted to the Agency under this Act must be submitted on forms prescribed by the Agency.

Section 35. The Agency shall have the duty to investigate violations of this Act.

Section 40. Penalties.

(a) Any manufacturer that willfully or knowingly violates any provision of this Act or fails to perform any duty imposed by this Act shall be liable for a civil penalty not to exceed $1,000 for the violation and

an additional civil penalty not to exceed $1,000 for each day the violation continues, and shall be liable for a civil penalty not to exceed $10,000 for a second or subsequent violation and an additional civil penalty not to exceed $1,000 for each day the second or subsequent violation continues.

(b) Any vehicle recycler, vehicle crusher, or scrap metal recycler that willfully or knowingly violates any provision of this Act or fails to perform any duty imposed by this Act shall be liable for a civil penalty not to exceed $250 for the first violation and not to exceed $500 for a second or subsequent violation.

(c) The penalties provided for in this Section may be recovered in a civil action brought in the name of the people of the State of Illinois by the State's Attorney of the county in which the violation occurred or by the Attorney General. Without limiting any other authority that may exist for the awarding of attorney's fees and costs, a court of competent jurisdiction may award costs and reasonable attorney's fees, including the reasonable costs of expert witnesses and consultants, to the State's Attorney or the Attorney General in a case where he or she has prevailed against a person who has committed a willful, knowing, or repeated violation of this Act. Any funds collected under this Section in an action in which the Attorney General has prevailed shall be deposited in the Hazardous Waste Fund established under the Environmental Protection Act. Any funds collected under this Section in an action in which a State's Attorney has prevailed shall be retained by the county in which he or she serves.

(d) The State's Attorney of the county in which the violation occurred or the Attorney General may, at the request of the Agency or on his or her own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act or to require such other actions as may be necessary to address violations of this Act.

(e) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act shall bar a cause of action by the State for any other penalty, injunction, or relief provided by any other law.

Section 45. Manufacturers subject to the collection program requirement of Section 15 of this Act shall indemnify, defend, and hold harmless vehicle recyclers, vehicle crushers, and scrap metal recyclers for any liabilities arising from releases from a mercury switch after the switch is transferred under the manufacturer's collection program to the manufacturer or its agent.

Section 50. If the Agency determines that the requirements of this Act are no longer necessary because a federal program provides equal or greater protection of human health and safety and the environment in this State, the Agency shall submit a report of its determination to the General Assembly. In making its determination the Agency shall seek comments or information from interested persons, including, but not limited to, representatives of vehicle recyclers, vehicle crushers, scrap metal recyclers, vehicle manufacturers, steel and iron manufacturers, and environmental groups.

Section 55. Repealer. This Act is repealed on January 1, 2018.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2884

AMENDMENT NO. 2. Amend Senate Bill 2884, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 11, line 7, by replacing "fails" with "willfully or knowingly fails"; and

on page 11, line 11, by replacing "$10,000" with "$5,000"; and

on page 12, line 23, after "agent", by inserting ", provided that the switch has been managed in accordance with the Environmental Protection Act and regulations adopted thereunder prior to the transfer"; and

on page 13, line 3, by replacing "2018" with "2011".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 2884**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Hunter, **Senate Bill No. 2921** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2921

AMENDMENT NO. 2. Amend Senate Bill 2921, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, in line 11, by changing "Director of" to "Secretary ~~Director~~ of Financial and"; and

on page 3, in line 3, after "of", by inserting "Financial and".

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 OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 2921**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

On motion of Senator Petka, **Senate Bill No. 2962**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Forby	Meeks	Schoenberg
Axley	Garrett	Millner	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Radogno	Trotter
Cronin	Jacobs	Raoul	Viverito
Crotty	Jones, J.	Rauschenberger	Watson
Cullerton	Jones, W.	Righter	Wilhelmi
Dahl	Lauzen	Risinger	Mr. President
del Valle	Link	Ronen	
DeLeo	Luechtefeld	Roskam	
Demuzio	Maloney	Rutherford	
Dillard	Martinez	Sandoval	

The following voted present:

Lightford

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 therein.

SENATE BILL RECALLED

On motion of Senator Bomke, **Senate Bill No. 2967** was recalled from the order of third reading to the order of second reading.

Senator Bomke offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2967

AMENDMENT NO. 1. Amend Senate Bill 2967 on page 1, lines 24 and 25, by replacing "is ~~has already been determined~~" with "has already been determined".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Bomke, **Senate Bill No. 2967**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Cronin, **Senate Bill No. 2968** was recalled from the order of third reading to the order of second reading.

Senator Cronin offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2968

AMENDMENT NO. 2. Amend Senate Bill 2968, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Good Samaritan Act is amended by changing Section 70 as follows:

(745 ILCS 49/70)

Sec. 70. Law enforcement officers, ~~or~~ firemen , Emergency Medical Technicians (EMTs) and First Responders; exemption from civil liability for emergency care. Any law enforcement officer or fireman as defined in Section 2 of the Line of Duty Compensation Act, any "emergency medical technician (EMT)" as defined in Section 3.50 of the Emergency Medical Services (EMS) Systems Act, and any "first responder" as defined in Section 3.60 of the Emergency Medical Services (EMS) Systems Act, who in good faith provides emergency care without fee or compensation to any person shall not, as a result of his or her acts or omissions, except willful and wanton misconduct on the part of the person, in providing the care, be liable to a person to whom such care is provided for civil damages.

(Source: P.A. 93-1047, eff. 10-18-04.)".

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cronin, **Senate Bill No. 2968**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Mr. President
Demuzio	Link	Ronen	
Dillard	Luechtefeld	Roskam	

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 therein.

SENATE BILL RECALLED

On motion of Senator Halvorson, **Senate Bill No. 2981** 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 TO SENATE BILL 2981

AMENDMENT NO. 1. Amend Senate Bill 2981 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Regional Cooperation and Smart Growth in Eastern Will County Act.

Section 5. Findings and purpose.

(1) The purpose of this Act is promoting responsible growth, regional cooperation, a regional approach to land use planning and design standards, revenue sharing among member entities, and preserving and enhancing the quality of life within the District.

(2) The south suburban airport to be sited in eastern Will County, Illinois, will generate development in and around surrounding jurisdictions. This development will have a significant impact upon the region and will provide burdens as well as benefits upon existing infrastructure. These burdens and benefits need to be shared and apportioned equitably.

(3) Cooperation among the surrounding local governments and agencies will support economic development and increase the potential benefits of the airport while limiting the adverse impacts upon the region. Sharing of certain revenues among the municipal members of the District will encourage cooperation, promote a regional approach to land use planning, and assist each member in dealing with adverse impact upon their municipality.

(4) It is also a purpose of this Act to ensure that future land uses within the area designated as the Eastern Will County Development District are compatible with the airport and its operations so that future operations and growth are not unduly constrained.

(5) This Act creates an entity, entitled the Eastern Will County Development District, to implement the purpose of this Act. The District should have adequate powers to achieve its goals and objectives, to be self-supporting, and to raise revenue in order to assist local governments address negative impacts upon infrastructure.

Section 10. Definitions. As used in this Act:

"Airport" or "south suburban airport" means a south suburban airport, as defined by the Federal Aviation Administration, located in eastern Will County, Illinois.

"Airport authority" means an authority created to establish and maintain a south suburban airport located in eastern Will County, Illinois.

"Airport-dependent uses" means uses that are typically found on or near an airport and must, by the nature of their operations, services, or products, be located on an airport or have direct and immediate access to an airport or airport runway. Such uses include, but are not limited to, airport terminals and control towers; airport runways, taxiways, taxi lanes, aircraft parking lanes, and auxiliary roads; hangars; aircraft rescue and firefighting facilities; air cargo storage, but not large distribution facilities; aircraft maintenance, washing, and repair shops; restaurants and hotels within a terminal; airline catering services; express mail and package sorting facilities, aviation fuel farms and services; aircraft testing facilities; airport administrative offices; airport authority offices and maintenance facilities; on-site parking; corporate facilities, including aircraft storage and operations; and any other use deemed to be necessary for the flight operation of the airport.

"Board" means the Board of Directors of the Eastern Will County Development District.

"Compatible land use" means any use of lands, buildings, and structures which is harmonious to the uses and activities being conducted on the adjoining lands and properties and which does not adversely affect or unreasonably impact any use or enjoyment of the adjoined land.

"County" means Will County.

"District" means the Eastern Will County Development District.

"District Land Use Plan" means a written statement of land use policies, goals, and objectives, together with maps, graphs, charts, illustrations or any other form of written or visual communication, as appropriate, that is adopted by the District.

"Member entities" means the villages of Beecher, Crete, Monee, Peotone, University Park, the County

of Will, and any new municipality incorporated under the laws of the State of Illinois which becomes a member of the Eastern Will County Development District.

"Member villages" means the villages of Beecher, Crete, Monee, Peotone, and University Park and any new municipality incorporated under the laws of the State of Illinois and located entirely within the boundaries of the Eastern Will County Development District.

Section 15. Creation of District.

(a) The Eastern Will County Development District is created as a political subdivision, body politic, and municipal corporation. The territorial jurisdiction of the District is the rectangular geographic area within the following boundaries: commencing at the southwest corner of Peotone Township and the southern boundary line of Will County, East to the Indiana state line, then north to a line one mile south of the Northern Will-Cook County line, then west to the western boundary line of Green Garden and Peotone townships, then south to the southern boundary of Will County.

(b) The governing and administrative powers of the District are vested in its Board of Directors, consisting of one member appointed by the President of the Village of Beecher with the consent of the Village Board, one member appointed by the President of the Village of Crete with the consent of the Village Board, one member appointed by the President of the Village of Monee with the consent of the Village Board, one member appointed by the President of the Village of Peotone with the consent of the Village Board, one member appointed by the Mayor of the Village of University Park with the consent of the Village Board, one member appointed by the County Executive of Will County with the consent of the County Board, and one member appointed by the governing body of the airport authority.

(c) The members of the Board shall be residents of Will County, Illinois, with their primary residence located within the Eastern Will County Development District.

(d) The terms of the initial appointees shall commence 30 days after the effective date of this Act. The duration of the term of each of the initial appointees shall be determined by lot as follows: one of the appointees shall serve a term expiring on the third Monday in May in the second year following the effective date of this Act; 2 of the appointees shall serve terms expiring on the third Monday in May in the third year following the effective date of this Act; 2 of the appointees shall serve terms expiring on the third Monday in May in the fourth year following the effective date of this Act, and 2 of the appointees shall be appointed to serve terms expiring on the third Monday in May in the fifth year following the effective date of this Act. All successors shall be appointed by the original appointing authority and hold office for a term of 4 years commencing the third Monday in May of the year in which their term commences, except in case of an appointment to fill a vacancy. Vacancies shall be filled for the remainder of the vacated term by the original appointing authority. Each member appointed to the Board shall serve until his or her successor is appointed and qualified. Notwithstanding the time remaining on a specific board member's term, board members shall serve at the pleasure of the appointing authority and a board member may be replaced by the appointing entity during that board member's term of office. A new board member who is appointed to replace a current board member during the current board member's term shall serve the remainder of the current board member's term in office. The appointing authority shall give notice of the appointment of the new board member, including a certified copy of the resolution appointing the new member, to the Board via certified mail. The new member will commence serving at the next meeting of the Board following notice of appointment.

(e) The Board shall annually choose one of its members to serve as Chair and one of its members to serve as Secretary. The Board shall appoint a Treasurer for the District who is not required to be a member of the Board.

(f) Members of the Board shall serve without compensation for their services as members but may be reimbursed for all necessary expenses incurred in connection with the performance of their duties as members.

(g) Within 30 days after appointment of the initial members, the Board shall organize for the transaction of business, select members to serve as Chair and Secretary, and adopt by-laws. Thereafter, the Board shall meet on the call of the Chair or upon written notice by 4 members of the Board. A majority of the members of the Board must be present in person to constitute a quorum for the transaction of business. The affirmative vote of a majority of a quorum of the members shall be necessary for the adoption of any ordinance or resolution. All ordinances and resolutions, before taking effect, shall be in writing, signed by the Chair, and attested by the Secretary.

(h) The Board shall appoint an Executive Director, who is not a member of the Board, who shall hold office at the discretion of the Board. The Executive Director shall be the chief administrative and operational officer of the District, direct and supervise its administrative affairs and general

management, perform such other duties as may be prescribed from time to time by the Board, and receive compensation fixed by the Board. The Executive Director shall attend all meetings of the Board, but no action of the Board shall be invalid on account of the absence of the Executive Director from a meeting.

(i) Should a new municipality incorporate within the District, that new municipality shall become a member of the District and shall be entitled to all rights and responsibilities of membership including voting membership upon the Board and revenue sharing, so long as the following criteria are met:

(1) The new municipality is incorporated as a village or city under Illinois law, and

(2) the entire corporate boundaries of the new municipality are within the District at the time of incorporation.

(j) The Board may set, through its by-laws, a process by which other municipalities may become a member of the District. A recommendation by a majority vote of the Board to add an additional member entity shall be considered persuasive by the General Assembly in considering an amendment to this Act to include the additional municipality.

Section 20. Administration. The District has the authority to establish a budget, raise revenue for administration, and retain staff, agents, and consultants to carry out planning, development review, and other duties and exercise all other powers incidental, necessary, convenient, or desirable to carry out and effectuate the powers granted in this Act. Without limitation, the District may enter into intergovernmental agreements under the Intergovernmental Cooperation Act, engage the services of the Illinois Finance Authority, sue and be sued, have and use a corporate seal, designate a fiscal year, and enter into contracts and leases.

Section 25. Planning. The District shall adopt an overall land use plan that identifies likely key development areas within the airport environs and lays the foundation for design and development standards and development review in that area. The District Land Use Plan is to be prepared by staff and consultants. Key elements shall include open space, transportation needs, compatibility of uses, and noise mitigation. Preparation of the land use plan shall include an opportunity for input from the governing body of each township with land within the District, and those Illinois cities and villages having a statutory planning area within the District boundaries. Prior to final approval of the District Land Use Plan by the Board, the Board shall hold a public hearing, pursuant to public notice of not less than 5 days and not more than 20 days, for the purpose of providing an opportunity for input by these townships and municipalities and the public.

The land use plan shall be transmitted to the governing bodies of the member villages and Will County for review and consideration. The land use plan shall not become effective until the governing bodies of Will County and of each member village of the District has approved the plan. However, approval of the District land use plan shall not be unreasonably withheld. Should any member village fail to approve or reject the land use plan for a period greater than 90 days after receipt of the plan from the District, that failure to act shall be deemed to be an approval of the land use plan. In the event that a member village shall reject the land use plan, that member village shall provide written notice of the rejection of the plan to the District. Said rejection notice shall include the specific reasons for said rejection of the land use plan. The District and its member villages and Will County shall make good faith efforts to come to an agreement regarding the land use plan. It shall be public policy that a District Land Use Plan be approved by the members of the District in order that the District may effectively perform its statutory mission.

The land use plan shall cover all territory within the District, including land uses within the member villages, focusing particularly on peripheral properties that may be directly affected by airport-related development.

The land use plan shall be reviewed and revised every 5 years, or at such times as may be deemed necessary by a majority vote of the Board, to reflect recent developments, annexations, and changing land use needs within the region.

Section 30. Design and development standards and development review. After adopting a land use plan, the District shall promulgate design and development standards. The design and development standards shall establish baseline requirements within the District in order to ensure that baseline design and development standards are consistent throughout the District. The District shall work with each member entity to encourage that the member villages and county shall adopt said baseline design and development standards.

The District shall review the design and development standards of each member village and of Will County and the District shall certify that said village or county standards conform to the District's baseline design and development standards. Notwithstanding adoption by the District of design and development standards, any member village or County may adopt land use regulations that are more stringent than those of the District.

Development applications shall be handled by the jurisdiction within which the project is located. The host jurisdiction shall review the application, applying the District's design and development standards, in addition to any other normal development requirements. The host jurisdiction shall forward the development application to the District for comment and certification. The District shall review the application and make specific findings regarding the impact of the project and determinations regarding mitigation of negative impact.

The certification process shall be determined by the Board and shall require a finding by a majority of the Board that a proposed development conforms to the District Land Use Plan, conforms to the District's design and development standards, and has adequately addressed the need to mitigate negative impact upon regional infrastructure in order for the District to make a positive finding. If the District finds that the proposed development satisfies the preceding criteria, the District shall notify the affected municipality that the District has reached a positive finding regarding the proposed development. The District shall issue a Certificate of Conformance to the host jurisdiction as evidence of the positive finding.

If any member entity shall object to a proposed development, that development shall be subject to a review process to be determined by the Board that shall require a two-thirds majority of the Board for a positive finding and issuance of a Certificate of Conformance.

If the District makes a finding that a proposed development fails to conform to the District Land Use Plan, fails to satisfy the applicable design and development standards, or fails to adequately address the need to mitigate negative impact upon regional infrastructure, the District shall notify the affected municipality of the District's negative finding. A negative finding by the District shall trigger a requirement that the affected host jurisdiction reach an extraordinary majority within their approval process in order to approve the proposed development. If a municipality should approve a development by an extraordinary majority and that development has failed to cure the defects that resulted in a negative finding by the District, then the proposed development shall be deemed a non-conforming development.

The District shall act in a timely manner in reviewing development proposals. After this timely review, the District shall convey, in writing, to the host jurisdiction the District's certification of a positive finding or a negative finding regarding the proposed development. A negative finding shall include the reasons for the negative finding and suggestions for ways to cure the negative aspects of the proposed development.

The District's authority is subject to all pre-annexation or other governmental agreements of the member villages and county in existence on the effective date of this Act.

If land in the District is annexed into a member village, the District shall continue to have development review power over that property as set forth in this Section and the design and development standards shall continue to apply. It shall be the policy of the District that when development is proposed in any unincorporated area, the District shall encourage, and assist in, annexation to an appropriate municipality.

Notwithstanding any other provision of this Section, undeveloped land within each member village on the effective date of this Act that has not received development approval or has not been the subject of a pre-existing annexation or development agreement must comply with uniform airport noise and safety and hazard mitigation land use regulations promulgated by the District, the airport authority, or other governmental agencies.

Building code and zoning enforcement authority shall be exercised by the village in which the property is located and shall be exercised by the County if the property is not located in a village.

The review and certification authority of the District shall be limited to non-residential development within the District, except the District may require notice of all proposed development for the purpose of determining consistency with the District Land Use Plan. Airport-dependent uses on land owned by the airport authority shall be exempt from the District's review and certification process.

Section 35. Land acquisition. The District may acquire by purchase or gift and hold or dispose of real or personal property or rights or interests therein. The District may acquire property from willing sellers, but the District may not exercise the power of eminent domain. Prior to the acquisition of real property, the District shall provide 30 days' notice to the airport authority in order that the airport authority may

make a determination that the land acquisition will not hinder any airport uses or future expansion.

Section 40. Airport noise monitoring, mitigation, and enforcement programs. Appropriate notations, in a form to be determined by the District, shall be required on all property deeds of land within the District that are within delineated noise impacted areas as defined by the airport authority.

The District may act as a representative of the member villages in discussing noise issues and cooperative mitigation measures with the airport authority and the Federal Aviation Administration.

Section 45. Economic development and marketing. The District may market and promote economic development activities in cooperation with the County, member villages, and other agencies. The District may help fund economic development activities by the County, villages, townships, and other entities. The District may seek grants, loans, or other financing opportunities to promote its planning and economic development mission or for operations.

Section 50. Infrastructure and service mitigation fees. The District may impose infrastructure and service mitigation fees on new industrial and commercial development within the District to pay for infrastructure and services necessitated by that development. New industrial and commercial development shall be industrial and commercial property that is developed, as evidenced by an application for building permit, within the District, after the effective date of this Act.

Section 55. Property taxes. The District may levy ad valorem property taxes upon all new industrial and commercial taxable property in the District. New industrial and commercial property shall be property that is developed, as evidenced by an application for building permit within the District, after the effective date of this Act. Proceeds shall be used for the administrative and operating expenses of the District, to carry out planning and development review functions, and to fund infrastructure improvements within the District.

Section 60. Use and occupation taxes.

(a) The District shall not have the authority to levy taxes for any purpose, except as provided in subsections (b), (c), (d), (e), and (f).

(b) By ordinance the District shall, as soon as practicable from the effective date of this Act, impose an occupation tax upon all persons engaged within the corporate limits of the 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 of 2.5% of the gross rental receipts from the renting, leasing, or letting of rooms within the District, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel as defined in that Act. Gross rental receipts shall not include charges that are added on account of the liability arising from any tax imposed by the State or any governmental agency on the occupation of renting, leasing or letting rooms in a hotel.

The tax imposed by the District under this subsection and all civil penalties that may be assessed as an incident to that tax shall be collected and enforced by the Illinois Department of Revenue. The certificate of registration that is issued by the Department to a lessor under the Hotel Operators' Occupation Tax Act shall permit that registrant to engage in a business that is taxable under any ordinance enacted under this subsection without registering separately with the Department under that ordinance or under this subsection. The Department 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 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, 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 prescribed in the Hotel Operators' Occupation Tax Act (except where the Act is inconsistent with this subsection), as fully as the Act were set out in this subsection.

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 a warrant to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer.

Persons subject to any tax under the authority imposed 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 the municipal tax imposed under Section 8-3-13 of the Illinois Municipal Code.

The person filing the return shall, at the time of filing the return, pay to the Department the amount of the tax, less a discount of 2.1% or $25 per calendar year, whichever is greater, which is allowed to reimburse the operator for the expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying data to the Department on request.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee for the District, all taxes and penalties collected under this subsection for deposit into a trust fund held outside the State Treasury. On or before the 25th day of each calendar month, the Department shall certify to the Comptroller the amounts to be paid, which shall be the amounts (not including credit memoranda) collected under this subsection during the second preceding calendar month by the Department, less any amounts determined by the Department to be necessary for payment of refunds.

A certified copy of any ordinance imposing or discontinuing a tax under this subsection or effecting a change in the rate of that tax shall be filed with the Illinois Department of Revenue, whereupon the Department shall proceed to administer and enforce this subsection on behalf of the District as of the first day of the third calendar month following the date of filing.

(c) By ordinance the Authority shall, as soon as practicable after the effective date of this Act, impose a tax upon all persons engaged in the business of renting automobiles in the District at the rate of 6% of the gross receipts from that business, except that no tax shall be imposed on the business of renting automobiles for use as taxicabs or in livery service. The tax imposed under this subsection and all civil penalties that may be assessed as an incident to that tax shall be collected and enforced by the Illinois Department of Revenue. The certificate of registration issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Automobile Renting Occupation and Use Tax Act shall permit that person to engage in a business that is taxable under any ordinance enacted under this subsection without registering separately with the Department under that ordinance or under this subsection. The Department 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 Department and persons who are subject to this subsection shall have the same rights, remedies, privileges, immunities, powers, and duties, be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure as are 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 prescribed in Sections 2 and 3 (in respect to all provisions of those Sections other than the State rate of tax; and in respect to the provisions of the Retailers' Occupation Tax Act referred to in those Sections, except as to the disposition of taxes and penalties collected, except for the provision allowing retailers a deduction from the tax to cover certain costs, and except that credit memoranda issued under this subsection may not be used to discharge any State tax liability) of the Automobile Renting Occupation and Use Tax Act, as fully as if provisions contained in those Sections of that Act were set forth in this subsection.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their tax liability under this subsection by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that sellers are required to collect under the Automobile Renting Occupation and Use Tax Act, pursuant to bracket schedules as the Department may prescribe. Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause a warrant to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected under this subsection for deposit into a trust fund held outside the State Treasury. On or before the 25th day of each calendar month, the Department shall certify to the Comptroller the amounts to be paid under this Section (not including credit memoranda) or collected under this subsection during the second preceding calendar month by the Department, less any amount determined by the Department to be necessary for payment of refunds. Within 10 days after receipt by the Comptroller of the Department's certification, the Comptroller shall cause the orders to be drawn for such amounts, and the Treasurer shall administer those amounts.

Nothing in this subsection authorizes the Authority to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

A certified copy of any ordinance imposing or discontinuing a tax under this subsection or effecting a change in the rate of that tax shall be filed with the Illinois Department of Revenue, whereupon the Department shall proceed to administer and enforce this subsection on behalf of the Authority as of the first day of the third calendar month following the date of filing.

(d) By ordinance the District shall, as soon as practicable after the effective date of this Act, impose a tax upon the privilege of using in the District an automobile that is rented from a rentor outside Illinois and is titled or registered with an agency of this State's government at a rate of 6% of the rental price of that automobile, except that no tax shall be imposed on the privilege of using automobiles rented for use as taxicabs or in livery service. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the District. The tax shall be collected by the Department of Revenue for the District. The tax must be paid to the State or an exemption determination must be obtained from the Department of Revenue before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which or State officer with whom the tangible personal property must be titled or registered if the Department and that agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this subsection, to collect all taxes, penalties, and interest due under this subsection, to dispose of taxes, penalties, and interest so collected in the manner provided in this subsection, and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty, or interest 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, be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure as are prescribed in Sections 2 and 4 (except provisions pertaining to the State rate of tax; and in respect to the provisions of the Use Tax Act referred to in that Section, except provisions concerning collection or refunding of the tax by retailers, except the provisions of Section 19 pertaining to claims by retailers, except the last paragraph concerning refunds, and except that credit memoranda issued under this subsection may not be used to discharge any State tax liability) of the Automobile Renting Occupation and Use Tax Act, as fully as if provisions contained in those Sections of that Act were set forth in this subsection.

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 a warrant to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer.

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 a trust fund held outside the State Treasury. On or before the 25th day of each calendar month, the Department shall certify to the State Comptroller the amounts to be paid, which shall be the amounts (not including credit memoranda) collected under this subsection during the second preceding calendar month by the Department, less any amounts determined by the Department to be necessary for payment of refunds. Within 10 days after receipt by the State Comptroller of the Department's certification, the Comptroller shall cause the orders to be drawn for such amounts, and the Treasurer shall administer those amounts.

A certified copy of any ordinance imposing or discontinuing a tax or effecting a change in the rate of that tax shall be filed with the Illinois Department of Revenue, whereupon the Department shall proceed to administer and enforce this subsection on behalf of the District as of the first day of the third calendar month following the date of filing.

(f) By ordinance the District shall, as soon as practicable after the effective date of this Act, impose an occupation tax on all persons, other than a governmental agency, engaged in the business of providing ground transportation for hire to passengers in the District at a rate of (i) $2 per taxi or livery vehicle departure with passengers for hire from commercial service airports in the District, (ii) for each departure with passengers for hire from a commercial service airport in the District in a bus or van operated by a person other than a person described in item (iii): $9 per bus or van with a capacity of one to 12 passengers, $18 per bus or van with a capacity of 13 to 24 passengers, and $27 per bus or van with a capacity of over 24 passengers, and (iii) for each departure with passengers for hire from a commercial service airport in the District in a bus or van operated by a person regulated by the Interstate Commerce Commission or Illinois Commerce Commission, operating scheduled service from the airport, and charging fares on a per passenger basis: $1 per passenger for hire in each bus or van. The term "commercial service airport" means the south suburban airport as defined by this Act.

In the ordinance imposing the tax, the Authority may provide for the administration and enforcement

of the tax and the collection of the tax from persons subject to the tax as the District determines to be necessary or practicable for the effective administration of the tax. The District may enter into agreements as it deems appropriate with any governmental agency providing for that agency to act as the District's agent to collect the tax.

In the ordinance imposing the tax, the District may designate a method or methods for persons subject to the tax to reimburse themselves for the tax liability arising under the ordinance (i) by separately stating the full amount of the tax liability as an additional charge to passengers departing the airports, (ii) by separately stating one-half of the tax liability as an additional charge to both passengers departing from and to passengers arriving at the airports, or (iii) by some other method determined by the District.

All taxes, penalties, and interest collected under any ordinance adopted under this subsection, less any amounts determined to be necessary for the payment of refunds, shall be paid forthwith to the State Treasurer, ex officio, for disbursement.

Section 65. Initial funding. The member entities and the State of Illinois shall provide funding for the first 3 years of the District's expenses pursuant to the following formula:

(i) Each member entity shall contribute to the District a sum equal to $2 per person for each resident of that member entity, as determined by the most recent census, residing within the District per annum for 3 consecutive years. The total of this annual contribution shall be deemed the Local Contribution; and

(ii) The State of Illinois shall provide matching funds to the District in an amount equal to the Local Contribution for 3 consecutive years.

Section 70. Special assessments. The District may levy, assess, and collect special assessments, except with respect to property that is not subject to special assessments, on new industrial and commercial development. New industrial and commercial development shall be industrial and commercial property that is developed, as evidenced by an application for building permit, within the District, after the effective date of this Act.

Section 75. Revenue Bonds. The District may borrow money from the United States Government or an agency thereof, or from any other public or private source, for the purposes of the District and, as evidence thereof, may issue its revenue bonds payable solely from the revenue from the operation of the District and any other funds available to the District for such purposes. These bonds may be issued with maturities not exceeding 40 years from the date of the bonds, and in such amounts as may be necessary to provide sufficient funds, together with interest, for the purposes of the District. These bonds shall bear interest at a rate not more than the maximum rate authorized by the Bond Authorization Act, payable semi-annually, may be made registerable as to principal, and may be made payable and callable as provided on any interest payment date at a price of par and accrued interest under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. Bonds issued under this Section are negotiable instruments. They shall be executed by the Chair and members of the Board, attested by the Secretary, and shall be sealed with the corporate seal of the District. In case any Board member or officer whose signature appears on the bonds or coupons ceases to hold that office before the bonds are delivered, such officer's signature shall nevertheless be valid and sufficient for all purposes as though the officer had remained in office until the bonds were delivered. The bonds shall be sold in such manner and upon such terms as the Board shall determine, except that the selling price shall be such that the interest cost to the District of the proceeds of the bonds shall not exceed the maximum rate authorized by the Bond Authorization Act, payable semi-annually, computed to maturity according to the standard table of bond values. The ordinance shall fix the amount of the revenue bonds proposed to be issued, the maturity or maturities, the interest rate, which shall not exceed the maximum rate authorized by the Bond Authorization Act, and all the details in connection with the bonds. The ordinance may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter, which shall share equally in the revenue of the District, as may be deemed necessary or advisable for the assurance of the payment of the bonds first issued. The District may also provide in the ordinance authorizing the issuance of bonds under this Section that the bonds, or such ones thereof may be specified, shall, to the extent and manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. The ordinance shall pledge the revenue derived from the operations of the District for the cost of paying the cost and operation of the District, and, as applicable, providing adequate depreciation funds, and paying the principal of and interest on the bonds of the District issued

under this Section.

Section 80. Fees and charges. The District may levy, assess, and collect fees and charges for services as it deems appropriate.

Section 85. Loans, grants, voluntary contributions and appropriations. The District may accept loans, grants, voluntary contributions, or appropriations of money or materials or property of any kind from a federal or State agency or officer, a unit of local government, or a private person or entity.

Section 90. Revenue sharing. The District, member villages, and county may share tax revenues subject to the following restrictions:

(i) District-wide use and occupation taxes are not subject to revenue sharing.

(ii) Funds generated by the existing rates of the member villages and the county are not subject to revenue sharing; and

(iii) Taxes imposed by other entities are not subject to revenue sharing.

The member entities shall share certain revenue generated within the District for new commercial and industrial development occurring after the effective date of this legislation. The amount of revenue subject to revenue sharing is as follows: (i) one-half of the corporate ad valorem property tax on new commercial and industrial development within the District shall be shared among the member entities, up to a limit of the first 0.2500 of the member entity's corporate levy, and (ii) one-half of any new local sales tax shall be shared among the member entities. The first half of the revenue from new ad valorem property taxes on new commercial and industrial development shall be retained by the host community and the second half of this revenue shall be distributed in one-sixth shares to the 6 member entities. The first half of any new sales taxes within the District shall be retained by the host community and the second half of this revenue shall be distributed in one-sixth shares to the 6 member entities. Should any additional municipalities become member villages, the distribution formula shall be amended to provide for equal shares of shared revenue for each member entity.

Existing and future ad valorem property tax proceeds for all taxing bodies, except the member entities, shall remain with the entity that assessed them.

Should a member entity offer an incentive for development in the form of a tax rebate, the rebate shall not include funds that are subject to revenue sharing unless the entity offering the incentive reimburses the other member entity entitled to receive revenue sharing for lost revenue, or the entitled members waive their right to reimbursement for lost revenue as evidenced by an intergovernmental agreement. Establishment of any new or expanded Tax Increment Financing districts within the District shall be subject to the revenue sharing requirements and restrictions of this Act.

Section 95. Infrastructure improvements. The District does not have independent authority to directly undertake infrastructure improvements, such as roads and water and sewer lines. However, the District may pass through funds it collects under this Act to other entities, such as the Illinois Department of Transportation, the county, townships, or villages. These funds shall be used to undertake infrastructure improvements, off-airport, according to a capital improvement plan approved by the Board or upon a finding of a majority of the Board that such improvements promote economic development within the District, provide community services or amenities, or help advance or realize other purposes for which the District was created.

Section 100. Annexation. Property within the District that is unincorporated on the effective date of this Act may be annexed by a village in accordance with State law; however, the District shall continue to have review and approval authority with respect to that property under Section 30.

Section 900. The Illinois Finance Authority Act is amended by changing Section 820-50 as follows:

(20 ILCS 3501/820-50)

Sec. 820-50. Pledge of Funds by Units of Local Government.

(a) Pledge of Funds. Any unit of local government which receives funds from the Department of Revenue, including without limitation funds received pursuant to Sections 8-11-1, 8-11-1.4, 8-11-5 or 8-11-6 of the Illinois Municipal Code, the Home Rule County Retailers' Occupation Tax Act, the Home Rule County Service Occupation Tax Act, Sections 25.05-2, 25.05-3 or 25.05-10 of "An Act to revise

the law in relation to counties", Section 5.01 of the Local Mass Transit District Act, Section 4.03 of the Regional Transportation Authority Act, Sections 2 or 12 of the State Revenue Sharing Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or from the Department of Transportation pursuant to Section 8 of the Motor Fuel Tax Law, or from the State Superintendent of Education (directly or indirectly through regional superintendents of schools) pursuant to Article 18 of the School Code, or any unit of government which receives other funds which are at any time in the custody of the State Treasurer, the State Comptroller, the Department of Revenue, the Department of Transportation or the State Superintendent of Education may by appropriate proceedings, pledge to the Authority or any entity acting on behalf of the Authority (including, without limitation, any trustee), any or all of such receipts to the extent that such receipts are necessary to provide revenues to pay the principal of, premium, if any, and interest on, and other fees related to, or to secure, any of the local government securities of such unit of local government which have been sold or delivered to the Authority or its designee or to pay lease rental payments to be made by such unit of local government to the extent that such lease rental payments secure the payment of the principal of, premium, if any, and interest on, and other fees related to, any local government securities which have been sold or delivered to the Authority or its designee. Any pledge of such receipts (or any portion thereof) shall constitute a first and prior lien thereon and shall be binding from the time the pledge is made.

(b) Direct Payment of Pledged Receipts. Any such unit of local government may, by such proceedings, direct that all or any of such pledged receipts payable to such unit of local government be paid directly to the Authority or such other entity (including, without limitation, any trustee) for the purpose of paying the principal of, premium, if any, and interest on, and fees relating to, such local government securities or for the purpose of paying such lease rental payments to the extent necessary to pay the principal of, premium, if any, and interest on, and other fees related to, such local government securities secured by such lease rental payments. Upon receipt of a certified copy of such proceedings by the State Treasurer, the State Comptroller, the Department of Revenue, the Department of Transportation or the State Superintendent of Education, as the case may be, such Department or State Superintendent shall direct the State Comptroller and State Treasurer to pay to, or on behalf of, the Authority or such other entity (including, without limitation, any trustee) all or such portion of the pledged receipts from the Department of Revenue, or the Department of Transportation or the State Superintendent of Education (directly or indirectly through regional superintendents of schools), as the case may be, sufficient to pay the principal of and premium, if any, and interest on, and other fees related to, the local governmental securities for which the pledge was made or to pay such lease rental payments securing such local government securities for which the pledge was made. The proceedings shall constitute authorization for such a directive to the State Comptroller to cause orders to be drawn and to the State Treasurer to pay in accordance with such directive. To the extent that the Authority or its designee notifies the Department of Revenue, the Department of Transportation or the State Superintendent of Education, as the case may be, that the unit of local government has previously paid to the Authority or its designee the amount of any principal, premium, interest and fees payable from such pledged receipts, the State Comptroller shall cause orders to be drawn and the State Treasurer shall pay such pledged receipts to the unit of local government as if they were not pledged receipts. To the extent that such receipts are pledged and paid to the Authority or such other entity, any taxes which have been levied or fees or charges assessed pursuant to law on account of the issuance of such local government securities shall be paid to the unit of local government and may be used for the purposes for which the pledged receipts would have been used.

(c) Payment of Pledged Receipts upon Default. Any such unit of local government may, by such proceedings, direct that such pledged receipts payable to such unit of local government be paid to the Authority or such other entity (including, without limitation, any trustee) upon a default in the payment of any principal of, premium, if any, or interest on, or fees relating to, any of the local government securities of such unit of local government which have been sold or delivered to the Authority or its designee or any of the local government securities which have been sold or delivered to the Authority or its designee and which are secured by such lease rental payments. If such local governmental security is in default as to the payment of principal thereof, premium, if any, or interest thereon, or fees relating thereto, to the extent that the State Treasurer, the State Comptroller, the Department of Revenue, the Department of Transportation or the State Superintendent of Education (directly or indirectly through regional superintendents of schools) shall be the custodian at any time of any other available funds or moneys pledged to the payment of such local government securities or such lease rental payments securing such local government securities pursuant to this Section and due or payable to such a unit of local government at any time subsequent to written notice to the State Comptroller and State Treasurer from the Authority or any entity acting on behalf of the Authority (including, without limitation, any

trustee) to the effect that such unit of local government has not paid or is in default as to payment of the principal of, premium, if any, or interest on, or fees relating to, any local government security sold or delivered to the Authority or any such entity (including, without limitation, any trustee) or has not paid or is in default as to the payment of such lease rental payments securing the payment of the principal of, premium, if any, or interest on, or other fees relating to, any local government security sold or delivered to the Authority or such other entity (including, without limitation, any trustee):

(i) The State Comptroller and the State Treasurer shall withhold the payment of such funds or moneys from such unit of local government until the amount of such principal, premium, if any, interest or fees then due and unpaid has been paid to the Authority or any such entity (including, without limitation, any trustee), or the State Comptroller and the State Treasurer have been advised that arrangements, satisfactory to the Authority or such entity, have been made for the payment of such principal, premium, if any, interest and fees; and

(ii) Within 10 days after a demand for payment by the Authority or such entity given to such unit of local government, the State Treasurer and the State Comptroller, the State Treasurer shall pay such funds or moneys as are legally available therefor to the Authority or such entity for the payment of principal of, premium, if any, or interest on, or fees relating to, such local government securities. The Authority or any such entity may carry out this Section and exercise all the rights, remedies and provisions provided or referred to in this Section.

(d) Remedies. Upon the sale or delivery of any local government securities of the Authority or its designee, the local government which issued such local government securities shall be deemed to have agreed that upon its failure to pay interest or premium, if any, on, or principal of, or fees relating to, the local government securities sold or delivered to the Authority or any entity acting on behalf of the Authority (including, without limitation, any trustee) when payable, all statutory defenses to nonpayment are thereby waived. Upon a default in payment of principal of or interest on any local government securities issued by a unit of local government and sold or delivered to the Authority or its designee, and upon demand on the unit of local government for payment, if the local government securities are payable from property taxes and funds are not legally available in the treasury of the unit of local government to make payment, an action in mandamus for the levy of a tax by the unit of local government to pay the principal of or interest on the local government securities shall lie, and the Authority or such entity shall be constituted a holder or owner of the local government securities as being in default. Upon the occurrence of any failure or default with respect to any local government securities issued by a unit of local government, the Authority or such entity may thereupon avail itself of all remedies, rights and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies within a time or period provided by law may not be raised as a defense by the unit of local government.

(Source: P.A. 93-205, eff. 1-1-04.)

Section 905. The State Officers and Employees Money Disposition Act is amended by changing Section 2a as follows:

(30 ILCS 230/2a) (from Ch. 127, par. 172)

Sec. 2a. Every officer, board, commission, commissioner, department, institute, arm, or agency to whom or to which this Act applies is to notify the State Treasurer as to money paid to him, her, or it under protest as provided in Section 2a.1, and the Treasurer is to place the money in a special fund to be known as the protest fund. At the expiration of 30 days from the date of payment, the money is to be transferred from the protest fund to the appropriate fund in which it would have been placed had there been payment without protest unless the party making that payment under protest has filed a complaint and secured within that 30 days a temporary restraining order or a preliminary injunction, restraining the making of that transfer and unless, in addition, within that 30 days, a copy of the temporary restraining order or preliminary injunction has been served upon the State Treasurer and also upon the officer, board, commission, commissioner, department, institute, arm, or agency to whom or to which the payment under protest was made, in which case the payment and such other payments as are subsequently made under notice of protest, as provided in Section 2a.1, by the same person, the transfer of which payments is restrained by such temporary restraining order or preliminary injunction, are to be held in the protest fund until the final order or judgment of the court. The judicial remedy herein provided, however, relates only to questions which must be decided by the court in determining the proper disposition of the moneys paid under protest. Any authorized payment from the protest fund shall bear simple interest at a rate equal to the average of the weekly rates at issuance on 13-week U.S. Treasury Bills from the date of deposit into the protest fund to the date of disbursement from the protest fund. In cases involving temporary restraining orders or preliminary injunctions entered March 10, 1982,

or thereafter, pursuant to this Section, when the party paying under protest fails in the protest action the State Treasurer shall determine if any moneys paid under protest were paid as a result of assessments under the following provisions: the Municipal Retailers' Occupation Tax Act, the Municipal Service Occupation Tax Act, the Municipal Use Tax Act, the Municipal Automobile Renting Occupation Tax Act, the Municipal Automobile Renting Use Tax Act, Section 8-11-9 of the Illinois Municipal Code, the Tourism, Conventions and Other Special Events Promotion Act of 1967, the County Automobile Renting Occupation Tax Act, the County Automobile Renting Use Tax Act, Section 5-1034 of the Counties Code, Section 5.01 of the Local Mass Transit District Act, the Downstate Public Transportation Act, Section 4.03 of the Regional Transportation Authority Act, subsections (c) and (d) of Section 201 of the Illinois Income Tax Act, Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas Revenue Tax Act, Section 2a.1 of the Public Utilities Revenue Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, and the Water Company Invested Capital Tax Act. Any such moneys paid under protest shall bear simple interest at a rate equal to the average of the weekly rates at issuance on 13-week U.S. Treasury Bills from the date of deposit into the protest fund to the date of disbursement from the protest fund.

It is unlawful for the Clerk of a court, a bank or any person other than the State Treasurer to be appointed as trustee with respect to any purported payment under protest, or otherwise to be authorized by a court to hold any purported payment under protest, during the pendency of the litigation involving such purported payment under protest, it being the expressed intention of the General Assembly that no one is to act as custodian of any such purported payment under protest except the State Treasurer.

No payment under protest within the meaning of this Act has been made unless paid to an officer, board, commission, commissioner, department, institute, arm or agency brought within this Act by Section 1 and unless made in the form specified by Section 2a.1. No payment into court or to a circuit clerk or other court-appointed trustee is a payment under protest within the meaning of this Act.
(Source: P.A. 87-950.)

Section 910. The Use Tax Act is amended by changing Section 22 as follows:
(35 ILCS 105/22) (from Ch. 120, par. 439.22)

Sec. 22. If it is determined that the Department should issue a credit or refund under this Act, the Department may first apply the amount thereof against any amount of tax or penalty or interest due hereunder, or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the person entitled to such credit or refund. For this purpose, if proceedings are pending to determine whether or not any tax or penalty or interest is due under this Act or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.

Any credit memorandum issued hereunder may be used by the authorized holder thereof to pay any tax or penalty or interest due or to become due under this Act or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such holder. Subject to reasonable rules of the Department, a credit memorandum issued hereunder may be assigned by the holder thereof to any other person for use in paying tax or penalty or interest which may be due or become due under this Act or under the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, from the assignee.

In any case in which there has been an erroneous refund of tax payable under this Act, a notice of tax liability may be issued at any time within 3 years from the making of that refund, or within 5 years from the making of that refund if it appears that any part of the refund was induced by fraud or the

misrepresentation of a material fact. The amount of any proposed assessment set forth in the notice shall be limited to the amount of the erroneous refund.
(Source: P.A. 91-901, eff. 1-1-01.)

Section 915. The Service Use Tax Act is amended by changing Section 20 as follows:
(35 ILCS 110/20) (from Ch. 120, par. 439.50)

Sec. 20. If it is determined that the Department should issue a credit or refund hereunder, the Department may first apply the amount thereof against any amount of tax or penalty or interest due hereunder, or under the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the person entitled to such credit or refund. For this purpose, if proceedings are pending to determine whether or not any tax or penalty or interest is due hereunder, or under the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.

Any credit memorandum issued hereunder may be used by the authorized holder thereof to pay any tax or penalty or interest due or to become due under this Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such holder. Subject to reasonable rules of the Department, a credit memorandum issued hereunder may be assigned by the holder thereof to any other person for use in paying tax or penalty or interest which may be due or become due under this Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the assignee.

In any case which there has been an erroneous refund of tax payable under this Act, a notice of tax liability may be issued at any time within 3 years from the making of that refund, or within 5 years from the making of that refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact. The amount of any proposed assessment set forth in the notice shall be limited to the amount of the erroneous refund.
(Source: P.A. 91-901, eff. 1-1-01.)

Section 920. The Service Occupation Tax Act is amended by changing Section 20 as follows:
(35 ILCS 115/20) (from Ch. 120, par. 439.120)

Sec. 20. If it is determined that the Department should issue a credit or refund hereunder, the Department may first apply the amount thereof against any amount of tax or penalty or interest due hereunder, or under the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the person entitled to such credit or refund. For this purpose, if proceedings are pending to determine whether or not any tax or penalty or interest is due hereunder, or under the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such

person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.

Any credit memorandum issued hereunder may be used by the authorized holder thereof to pay any tax or penalty or interest due or to become due under this Act, or under the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such holder. Subject to reasonable rules of the Department, a credit memorandum issued hereunder may be assigned by the holder thereof to any other person for use in paying tax or penalty or interest which may be due or become due under this Act, the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the assignee.

In any case in which there has been an erroneous refund of tax payable under this Act, a notice of tax liability may be issued at any time within 3 years from the making of that refund, or within 5 years from the making of that refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact. The amount of any proposed assessment set forth in the notice shall be limited to the amount of the erroneous refund.

(Source: P.A. 91-901, eff. 1-1-01.)

Section 925. The Retailers' Occupation Tax Act is amended by changing Section 6 as follows:

(35 ILCS 120/6) (from Ch. 120, par. 445)

Sec. 6. Credit memorandum or refund. If it appears, after claim therefor filed with the Department, that an amount of tax or penalty or interest has been paid which was not due under this Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person died or became a person under legal disability, to his or her legal representative, as such. For purposes of this Section, the tax is deemed to be erroneously paid by a retailer when the manufacturer of a motor vehicle sold by the retailer accepts the return of that automobile and refunds to the purchaser the selling price of that vehicle as provided in the New Vehicle Buyer Protection Act. When a motor vehicle is returned for a refund of the purchase price under the New Vehicle Buyer Protection Act, the Department shall issue a credit memorandum or a refund for the amount of tax paid by the retailer under this Act attributable to the initial sale of that vehicle. Claims submitted by the retailer are subject to the same restrictions and procedures provided for in this Act. If it is determined that the Department should issue a credit memorandum or refund, the Department may first apply the amount thereof against any tax or penalty or interest due or to become due under this Act or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from the person who made the erroneous payment. If no tax or penalty or interest is due and no proceeding is pending to determine whether such person is indebted to the Department for tax or penalty or interest, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum may be assigned and set over by the lawful holder thereof, subject to reasonable rules of the Department, to any other person who is subject to this Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, and the amount thereof applied by the Department against any tax or penalty or interest due or to become due under this Act or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local occupation or use tax administered by the Department, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, Section 60 of the Regional Cooperation and Smart Growth

in Eastern Will County Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, from such assignee. However, as to any claim for credit or refund filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under this Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of this Act, such claim may be filed at any time prior to the expiration of the period agreed upon.

No claim may be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit or refund to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment or order of court. No credit may be allowed or refund made for any amount paid by or collected from any claimant unless it appears (a) that the claimant bore the burden of such amount and has not been relieved thereof nor reimbursed therefor and has not shifted such burden directly or indirectly through inclusion of such amount in the price of the tangible personal property sold by him or her or in any manner whatsoever; and that no understanding or agreement, written or oral, exists whereby he or she or his or her legal representative may be relieved of the burden of such amount, be reimbursed therefor or may shift the burden thereof; or (b) that he or she or his or her legal representative has repaid unconditionally such amount to his or her vendee (1) who bore the burden thereof and has not shifted such burden directly or indirectly, in any manner whatsoever; (2) who, if he or she has shifted such burden, has repaid unconditionally such amount to his own vendee; and (3) who is not entitled to receive any reimbursement therefor from any other source than from his or her vendor, nor to be relieved of such burden in any manner whatsoever. No credit may be allowed or refund made for any amount paid by or collected from any claimant unless it appears that the claimant has unconditionally repaid, to the purchaser, any amount collected from the purchaser and retained by the claimant with respect to the same transaction under the Use Tax Act.

Any credit or refund that is allowed under this Section shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act.

In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department, by rule or regulation, shall provide for the payment of refunds in hardship cases and shall define what types of cases qualify as hardship cases.

If a retailer who has failed to pay retailers' occupation tax on gross receipts from retail sales is required by the Department to pay such tax, such retailer, without filing any formal claim with the Department, shall be allowed to take credit against such retailers' occupation tax liability to the extent, if any, to which such retailer has paid an amount equivalent to retailers' occupation tax or has paid use tax in error to his or her vendor or vendors of the same tangible personal property which such retailer bought for resale and did not first use before selling it, and no penalty or interest shall be charged to such retailer on the amount of such credit. However, when such credit is allowed to the retailer by the Department, the vendor is precluded from refunding any of that tax to the retailer and filing a claim for credit or refund with respect thereto with the Department. The provisions of this amendatory Act shall be applied retroactively, regardless of the date of the transaction.
(Source: P.A. 91-901, eff. 1-1-01.)

Section 999. Effective date. This Act takes effect upon the earlier of (i) the date of the Record of Decision by the Federal Aviation Authority or (ii) the date of any transfer of land for the airport from the State of Illinois to the airport authority. The governing body of the airport authority shall promptly file a written certification with the Index Department of the Secretary of State indicating the dates on which each of these events occurred.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Halvorson, **Senate Bill No. 2981**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 48; Nays 4; Present 3.

The following voted in the affirmative:

Althoff	Forby	Martinez	Shadid
Bomke	Garrett	Munoz	Sieben
Brady	Geo-Karis	Pankau	Silverstein
Burzynski	Haine	Peterson	Sullivan
Clayborne	Halvorson	Petka	Syverson
Collins	Harmon	Radogno	Viverito
Cronin	Jacobs	Rauschenberger	Watson
Cullerton	Jones, W.	Righter	Wilhelmi
Dahl	Lauzen	Risinger	Mr. President
del Valle	Lightford	Ronen	
DeLeo	Link	Rutherford	
Demuzio	Luechtefeld	Sandoval	
Dillard	Maloney	Schoenberg	

The following voted in the negative:

Axley	Millner
Meeks	Roskam

The following voted present:

Hendon
Raoul
Trotter

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 therein.

On motion of Senator Silverstein, **Senate Bill No. 2998**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Geo-Karis	Meeks	Schoenberg
Axley	Haine	Millner	Shadid
Bomke	Halvorson	Munoz	Sieben
Brady	Harmon	Pankau	Silverstein
Clayborne	Hendon	Peterson	Sullivan
Collins	Hunter	Petka	Syverson
Cronin	Jacobs	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito

Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Demuzio	Luechtefeld	Roskam	
Dillard	Maloney	Rutherford	
Forby	Martinez	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 3016** was recalled from the order of third reading to the order of second reading.

Senator Dillard offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 3016

AMENDMENT NO. 1. Amend Senate Bill 3016 on page 6, lines 5 and 6, by replacing "90" each time it appears with "180"; and

on page 6, line 8, by replacing "not to exceed 4 times a year" with "~~not to exceed 4 times a year~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 3016**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Meeks	Schoenberg
Axley	Geo-Karis	Millner	Shadid
Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, J.	Rauschenberger	Watson
Dahl	Jones, W.	Righter	Wilhelmi
del Valle	Lauzen	Risinger	Mr. President
DeLeo	Lightford	Ronen	
Demuzio	Link	Roskam	
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	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 and ask their concurrence therein.

At the hour of 1:55 o'clock p.m., Senator Halvorson, presiding.

On motion of Senator Crotty, **Senate Bill No. 3046**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 17; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Millner	Sieben
Axley	Hendon	Munoz	Silverstein
Brady	Hunter	Pankau	Trotter
Collins	Jones, W.	Radogno	Viverito
Crotty	Lightford	Raoul	Wilhelmi
Cullerton	Link	Risinger	Mr. President
del Valle	Luechtefeld	Ronen	
DeLeo	Maloney	Roskam	
Demuzio	Martinez	Schoenberg	
Halvorson	Meeks	Shadid	

The following voted in the negative:

Bomke	Haine	Rauschenberger	Syverson
Burzynski	Jacobs	Righter	Watson
Cronin	Jones, J.	Rutherford	
Dahl	Lauzen	Sandoval	
Forby	Peterson	Sullivan	

The following voted present:

Clayborne

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 therein.

SENATE BILL RECALLED

On motion of Senator Garrett, **Senate Bill No. 3086** 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. 2 TO SENATE BILL 3086

AMENDMENT NO. 2. Amend Senate Bill 3086, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, in line 30, after "Act", by inserting "or the Telephone Company Act"; and

on page 2, below line 32, by inserting the following:

"(7) Development of (i) a historic resource, as defined in Section 3 of the Illinois State Agency Historic Resources Preservation Act, (ii) a landmark designated as such under a local ordinance, or (iii) a contributing structure within a local landmark district listed on the National Register of Historic Places; if the proposed development requires that the property be preserved as a historic resource, local landmark, or contributing structure.".

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 OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Garrett, **Senate Bill No. 3086**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

Senator Martinez had an inquiry of the Chair as to the number of votes needed for passage of Senate Bill 3086.

The Chair ruled that Senate Bill 3086 requires thirty votes for passage because it relates to concurrent jurisdiction.

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

Yeas 44; Nays 2; Present 10.

The following voted in the affirmative:

Axley	Garrett	Millner	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Peterson	Silverstein
Burzynski	Halvorson	Petka	Sullivan
Collins	Harmon	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Watson
Crotty	Jones, J.	Righter	Wilhelmi
Cullerton	Jones, W.	Risinger	Mr. President
Dahl	Lauzen	Ronen	
del Valle	Link	Roskam	
Demuzio	Luechtefeld	Rutherford	
Forby	Maloney	Schoenberg	

The following voted in the negative:

Hunter
Martinez

The following voted present:

Althoff	Dillard	Meeks	Viverito
Clayborne	Hendon	Pankau	
DeLeo	Lightford	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 702** 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 TO SENATE BILL 702

AMENDMENT NO. 1. Amend Senate Bill 702 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Sections 18-165 and 18-185 and by adding Division 14 to Article 10 as follows:

(35 ILCS 200/Art. 10 Div. 14 heading new)

DIVISION 14. VALUATION OF CERTAIN LEASES OF EXEMPT PROPERTY

(35 ILCS 200/10-365 new)

Sec. 10-365. U.S. Military Public/Private Residential Developments. PPV Leases must be classified and valued as set forth in Sections 10-370 through 10-380 during the period beginning January 1, 2006 and ending with the earlier of the year 50 years after the base year or the year in which a PPV Lease terminates.

(35 ILCS 200/10-370 new)

Sec. 10-370. Definitions. For the purposes of this Division 14:

"PPV Lease" means a leasehold interest in property that is exempt from taxation under Section 15-50 of this Code and that is leased, pursuant to authority set forth in Section 2878 of Chapter 10 of the United States Code, to another whose property is not exempt for the purpose of, after January 1, 2006, the design, finance, construction, renovation, management, operation, and maintenance of rental housing units and associated improvements at, among other facilities, naval training facilities in the State of Illinois.

"Net operating income" means all revenues received minus the lesser of (i) 39% of all revenues or (ii) expenses before interest, taxes, depreciation, and amortization.

"Tax load factor" means the level of assessment, as set forth under item (b) of Section 9-145 or under Section 9-150, multiplied by the cumulative tax rate for the current taxable year.

(35 ILCS 200/10-375 new)

Sec. 10-375. Valuation.

(a) A PPV Lease must be valued at its fair cash value, as provided under item (b) of Section 9-145 or under Section 9-150.

(b) The fair cash value of a PPV Lease must be determined by using an income capitalization approach. To determine the fair cash value of a PPV Lease, the net operating income is divided by (i) a rate of 5.75% plus (ii) the actual or most recently ascertainable tax load factor for the subject year.

(c) By April 15 of each year, the holder of a PPV Lease must report to the chief county assessment officer in each county in which the leasehold property is located the annual gross income and expenses derived and incurred from the PPV Lease, including the rental of leased property for each military housing facility subject to a PPV lease.

(35 ILCS 200/10-380 new)

Sec. 10-380. For the taxable years 2006, 2007, 2008, and 2009, the chief county assessment officer in the county in which property subject to a PPV Lease is located shall apply the provisions of this Division 14 in assessing and determining the value of any qualified property for purposes of the property tax laws of this State.

(35 ILCS 200/18-165)

Sec. 18-165. Abatement of taxes.

(a) Any taxing district, upon a majority vote of its governing authority, may, after the determination of the assessed valuation of its property, order the clerk of that county to abate any portion of its taxes on the following types of property:

(1) Commercial and industrial.

(A) The property of any commercial or industrial firm, including but not limited to the property of (i) any firm that is used for collecting, separating, storing, or processing recyclable materials, locating within the taxing district during the immediately preceding year from another state, territory, or country, or having been newly created within this State during the immediately preceding year, or expanding an existing facility, or (ii) any firm that is used for the generation and

transmission of electricity locating within the taxing district during the immediately preceding year or expanding its presence within the taxing district during the immediately preceding year by construction of a new electric generating facility that uses natural gas as its fuel, or any firm that is used for production operations at a new, expanded, or reopened coal mine within the taxing district, that has been certified as a High Impact Business by the Illinois Department of Commerce and Economic Opportunity ~~Community Affairs~~. The property of any firm used for the generation and transmission of electricity shall include all property of the firm used for transmission facilities as defined in Section 5.5 of the Illinois Enterprise Zone Act. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $4,000,000.

(A-5) Any property in the taxing district of a new electric generating facility, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity ~~Community Affairs~~ Law of the Civil Administrative Code of Illinois. The abatement shall not exceed a period of 10 years. The abatement shall be subject to the following limitations:

(i) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $25,000,000 but less than $50,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 5% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 20% of the taxing district's taxes from the new electric generating facility;

(ii) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $50,000,000 but less than $75,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 10% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 35% of the taxing district's taxes from the new electric generating facility;

(iii) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $75,000,000 but less than $100,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 20% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 50% of the taxing district's taxes from the new electric generating facility;

(iv) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $100,000,000 but less than $125,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 30% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility;

(v) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $125,000,000 but less than $150,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 40% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility;

(vi) if the equalized assessed valuation of the new electric generating facility is equal to or greater than $150,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 50% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility.

The abatement is not effective unless the owner of the new electric generating facility agrees to repay to the taxing district all amounts previously abated, together with interest computed at the rate and in the manner provided for delinquent taxes, in the event that the owner of the new electric generating facility closes the new electric generating facility before the expiration of the entire term of the abatement.

The authorization of taxing districts to abate taxes under this subdivision (a)(1)(A-5) expires on January 1, 2010.

(B) The property of any commercial or industrial development of at least 500 acres having been created within the taxing district. The abatement shall not exceed a period of 20 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $12,000,000.

(C) The property of any commercial or industrial firm currently located in the taxing district that expands a facility or its number of employees. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $4,000,000. The abatement period may be renewed at the option of the taxing districts.

(2) Horse racing. Any property in the taxing district which is used for the racing of horses and upon which capital improvements consisting of expansion, improvement or replacement of existing facilities have been made since July 1, 1987. The combined abatements for such property from all taxing districts in any county shall not exceed $5,000,000 annually and shall not exceed a period of 10 years.

(3) Auto racing. Any property designed exclusively for the racing of motor vehicles. Such abatement shall not exceed a period of 10 years.

(4) Academic or research institute. The property of any academic or research institute in the taxing district that (i) is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code, (ii) operates for the benefit of the public by actually and exclusively performing scientific research and making the results of the research available to the interested public on a non-discriminatory basis, and (iii) employs more than 100 employees. An abatement granted under this paragraph shall be for at least 15 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $5,000,000.

(5) Housing for older persons. Any property in the taxing district that is devoted exclusively to affordable housing for older households. For purposes of this paragraph, "older households" means those households (i) living in housing provided under any State or federal program that the Department of Human Rights determines is specifically designed and operated to assist elderly persons and is solely occupied by persons 55 years of age or older and (ii) whose annual income does not exceed 80% of the area gross median income, adjusted for family size, as such gross income and median income are determined from time to time by the United States Department of Housing and Urban Development. The abatement shall not exceed a period of 15 years, and the aggregate amount of abated taxes for all taxing districts shall not exceed $3,000,000.

(6) Historical society. For assessment years 1998 through 2008, the property of an historical society qualifying as an exempt organization under Section 501(c)(3) of the federal Internal Revenue Code.

(7) Recreational facilities. Any property in the taxing district (i) that is used for a municipal airport, (ii) that is subject to a leasehold assessment under Section 9-195 of this Code and (iii) which is sublet from a park district that is leasing the property from a municipality, but only if the property is used exclusively for recreational facilities or for parking lots used exclusively for those facilities. The abatement shall not exceed a period of 10 years.

(8) Relocated corporate headquarters. If approval occurs within 5 years after the effective date of this amendatory Act of the 92nd General Assembly, any property or a portion of any property in a taxing district that is used by an eligible business for a corporate headquarters as defined in the Corporate Headquarters Relocation Act. Instead of an abatement under this paragraph (8), a taxing district may enter into an agreement with an eligible business to make annual payments to that eligible business in an amount not to exceed the property taxes paid directly or indirectly by that eligible business to the taxing district and any other taxing districts for premises occupied pursuant to a written lease and may make those payments without the need for an annual appropriation. No school district, however, may enter into an agreement with, or abate taxes for, an eligible business unless the municipality in which the corporate headquarters is located agrees to provide funding to the school district in an amount equal to the amount abated or paid by the school district as provided in this paragraph (8). Any abatement ordered or agreement entered into under this paragraph (8) may be effective for the entire term specified by the taxing district, except the term of the abatement or annual payments may not exceed 20 years.

United States Military Public/Private Residential Developments. Each building or structure designed, financed, constructed, renovated, managed, operated, or maintained after January 1, 2006 under a "PPV Lease, as set forth under Division 14 of Article 10.

(b) Upon a majority vote of its governing authority, any municipality may, after the determination of the assessed valuation of its property, order the county clerk to abate any portion of its taxes on any property that is located within the corporate limits of the municipality in accordance with Section 8-3-18 of the Illinois Municipal Code.

(Source: P.A. 92-12, eff. 7-1-01; 92-207, eff. 8-1-01; 92-247, eff. 8-3-01; 92-651, eff. 7-11-02; 93-270, eff. 7-22-03; revised 12-6-03.)

(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 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; (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; and (o) ~~(m)~~ made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension 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; (h-4) made for stormwater management purposes by the Metropolitan Water Reclamation District of Greater Chicago under Section 12 of the Metropolitan Water Reclamation District Act; (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) made for payments of principal and interest on bonds authorized by Public Act 87-1191 or 93-601 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; (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; and (p) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"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); (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; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension 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); (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; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension 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, including the assessed value of any real property located within the boundaries of an otherwise exempt military reservation that is intended for residential use and owned by or leased to a private corporation or other private entity, 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; 93-689, eff. 7-1-04; 93-690, eff. 7-1-04; 93-1049, eff. 11-17-04; revised 12-14-04.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 702

AMENDMENT NO. 2. Amend Senate Bill 702, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 8, line 31, by changing "United" to "(9) United".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 702**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 33; Nays 18; Present 2.

The following voted in the affirmative:

Althoff	Garrett	Maloney	Shadid
Clayborne	Haine	Martinez	Silverstein
Collins	Halvorson	Meeks	Sullivan
Crotty	Harmon	Millner	Trotter
Cullerton	Hendon	Munoz	Viverito
del Valle	Hunter	Peterson	Mr. President
DeLeo	Jacobs	Raoul	
Dillard	Lightford	Ronen	
Forby	Link	Sandoval	

The following voted in the negative:

Brady	Jones, W.	Rauschenberger	Sieben
Burzynski	Lauzen	Righter	Syverson
Cronin	Luechtefeld	Risinger	Watson
Dahl	Pankau	Roskam	
Jones, J.	Petka	Rutherford	

The following voted present:

Radogno
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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate 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 TO SENATE BILL 827

AMENDMENT NO. 1. Amend Senate Bill 827 by replacing everything after the enacting clause with the following:

"Section 5. The Fire Department Promotion Act is amended by changing Section 10 as follows:

(50 ILCS 742/10)

Sec. 10. Applicability.

(a) This Act shall apply to all positions in an affected department, except those specifically excluded in items (i), (ii), (iii), (iv), and (v) of the definition of "promotion" in Section 5 unless such positions are covered by a collective bargaining agreement in force on the effective date of this Act. Existing promotion lists shall continue to be valid until their expiration dates, or up to a maximum of 3 years after the effective date of this Act.

(b) Notwithstanding any statute, ordinance, rule, or other laws to the contrary, all promotions in an affected department to which this Act applies shall be administered in the manner provided for in this Act. Provisions of the Illinois Municipal Code, the Fire Protection District Act, municipal ordinances, or rules adopted pursuant to such authority and other laws relating to promotions in affected departments shall continue to apply to the extent they are compatible with this Act, but in the event of conflict between this Act and any other law, this Act shall control.

(c) A home rule or non-home rule municipality may not administer its fire department promotion process in a manner that is inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(d) This Act is intended to serve as a minimum standard and shall be construed to authorize and not to limit:

(1) An appointing authority from establishing different or supplemental promotional criteria or components, provided that the criteria are job-related and applied uniformly.

(2) The right of ~~negotiation by an employer and~~ an exclusive bargaining representative to require an employer to negotiate ~~of~~ clauses within a collective bargaining agreement relating to conditions, criteria, or procedures for the promotion of employees to ranks, as defined in Section 5, covered by this Act ~~who are members of bargaining units~~.

(3) The negotiation by an employer and an exclusive bargaining representative of provisions within a collective bargaining agreement to achieve affirmative action objectives, provided that such clauses are consistent with applicable law.

(e) Local authorities and exclusive bargaining agents affected by this Act may agree to waive one or more of its provisions and bargain on the contents of those provisions, provided that any such waivers shall be considered permissive subjects of bargaining.

(Source: P.A. 93-411, eff. 8-4-03.)

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 foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 827**, having been transcribed and typed and all amendments adopted thereto having been printed, 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	Garrett	Meeks	Schoenberg
Axley	Geo-Karis	Millner	Shadid

Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Radogno	Trotter
Crotty	Jones, J.	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Mr. President
DeLeo	Link	Ronen	
Demuzio	Luechtefeld	Roskam	
Dillard	Maloney	Rutherford	
Forby	Martinez	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 and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Schoenberg, **Senate Bill No. 951** was recalled from the order of third reading to the order of second reading.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 951

AMENDMENT NO. 1. Amend Senate Bill 951 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 12-4.25 as follows:

(305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

Sec. 12-4.25. Medical assistance program; vendor participation.

(A) The Illinois Department may deny, suspend or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V, if after reasonable notice and opportunity for a hearing the Illinois Department finds:

(a) Such vendor is not complying with the Department's policy or rules and regulations, or with the terms and conditions prescribed by the Illinois Department in its vendor agreement, which document shall be developed by the Department as a result of negotiations with each vendor category, including physicians, hospitals, long term care facilities, pharmacists, optometrists, podiatrists and dentists setting forth the terms and conditions applicable to the participation of each vendor group in the program; or

(b) Such vendor has failed to keep or make available for inspection, audit or copying, after receiving a written request from the Illinois Department, such records regarding payments claimed for providing services. This section does not require vendors to make available patient records of patients for whom services are not reimbursed under this Code; or

(c) Such vendor has failed to furnish any information requested by the Department regarding payments for providing goods or services; or

(d) Such vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the medical assistance program; or

(e) Such vendor has furnished goods or services to a recipient which are (1) in excess of his or her needs, (2) harmful to the recipient, or (3) of grossly inferior quality, all of such determinations to be based upon competent medical judgment and evaluations; or

(f) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) was previously terminated from participation in the Illinois medical assistance program, or was terminated from participation in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code; or

(2) was a person with management responsibility for a vendor previously terminated from participation in the Illinois medical assistance program, or terminated from participation in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor previously terminated from participation in the Illinois medical assistance program, or terminated from participation in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination; or

(4) was an owner of a sole proprietorship or partner of a partnership previously terminated from participation in the Illinois medical assistance program, or terminated from participation in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination; or

(g) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, either:

(1) has engaged in practices prohibited by applicable federal or State law or regulation relating to the medical assistance program; or

(2) was a person with management responsibility for a vendor at the time that such vendor engaged in practices prohibited by applicable federal or State law or regulation relating to the medical assistance program; or

(3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation relating to the medical assistance program; or

(4) was an owner of a sole proprietorship or partner of a partnership which was a vendor at the time such vendor engaged in practices prohibited by applicable federal or State law or regulation relating to the medical assistance program; or

(h) The direct or indirect ownership of the vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is terminated or barred from participating as a vendor to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(A-5) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that the vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship that is a vendor; or a partner in a partnership that is a vendor has been convicted of a felony offense based on fraud or willful misrepresentation related to any of the following:

(1) The medical assistance program under Article V of this Code.

(2) A medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code.

(3) The Medicare program under Title XVIII of the Social Security Act.

(4) The provision of health care services.

(B) The Illinois Department shall deny, suspend or terminate the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V:

(1) if such vendor is not properly licensed;

(2) within 30 days of the date when such vendor's professional license, certification

or other authorization has been refused renewal or has been revoked, suspended or otherwise terminated; or

(3) if such vendor has been convicted of a violation of this Code, as provided in Article VIIIA.

(C) Upon termination of a vendor of goods or services from participation in the medical assistance program authorized by this Article, a person with management responsibility for such vendor during the time of any conduct which served as the basis for that vendor's termination is barred from participation in the medical assistance program.

Upon termination of a corporate vendor, the officers and persons owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in the vendor during the time of any conduct which served as the basis for that vendor's termination are barred from participation in the medical assistance program. A person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a terminated corporate vendor may not transfer his or her ownership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Upon termination of a sole proprietorship or partnership, the owner or partners during the time of any conduct which served as the basis for that vendor's termination are barred from participation in the medical assistance program. The owner of a terminated vendor that is a sole proprietorship, and a partner in a terminated vendor that is a partnership, may not transfer his or her ownership or partnership interest in that vendor to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

Rules adopted by the Illinois Department to implement these provisions shall specifically include a definition of the term "management responsibility" as used in this Section. Such definition shall include, but not be limited to, typical job titles, and duties and descriptions which will be considered as within the definition of individuals with management responsibility for a provider.

(D) If a vendor has been suspended from the medical assistance program under Article V of the Code, the Director may require that such vendor correct any deficiencies which served as the basis for the suspension. The Director shall specify in the suspension order a specific period of time, which shall not exceed one year from the date of the order, during which a suspended vendor shall not be eligible to participate. At the conclusion of the period of suspension the Director shall reinstate such vendor, unless he finds that such vendor has not corrected deficiencies upon which the suspension was based.

If a vendor has been terminated from the medical assistance program under Article V, such vendor shall be barred from participation for at least one year, except that if a vendor has been terminated based on a conviction of a violation of Article VIIIA or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a medical assistance program in another state that is of the kind provided under Article V, (iii) the Medicare program under Title XVIII of the Social Security Act, or (iv) the provision of health care services, then the vendor shall be barred from participation for 5 years or for the length of the vendor's sentence for that conviction, whichever is longer. At the end of one year a vendor who has been terminated may apply for reinstatement to the program. Upon proper application to be reinstated such vendor may be deemed eligible by the Director providing that such vendor meets the requirements for eligibility under this Code. If such vendor is deemed not eligible for reinstatement, he shall be barred from again applying for reinstatement for one year from the date his application for reinstatement is denied.

A vendor whose termination from participation in the Illinois medical assistance program under Article V was based solely on an action by a governmental entity other than the Illinois Department may, upon reinstatement by that governmental entity or upon reversal of the termination, apply for rescission of the termination from participation in the Illinois medical assistance program. Upon proper application for rescission, the vendor may be deemed eligible by the Director if the vendor meets the requirements for eligibility under this Code.

If a vendor has been terminated and reinstated to the medical assistance program under Article V and the vendor is terminated a second or subsequent time from the medical assistance program, the vendor shall be barred from participation for at least 2 years, except that if a vendor has been terminated a second time based on a conviction of a violation of Article VIIIA or a conviction of a felony based on fraud or a willful misrepresentation related to (i) the medical assistance program under Article V, (ii) a medical assistance program in another state that is of the kind provided under Article V, (iii) the Medicare program under Title XVIII of the Social Security Act, or (iv) the provision of health care services, then the vendor shall be barred from participation for life. At the end of 2 years, a vendor who has been terminated may apply for reinstatement to the program. Upon application to be reinstated, the vendor may be deemed eligible if the vendor meets the requirements for eligibility under this Code. If

the vendor is deemed not eligible for reinstatement, the vendor shall be barred from again applying for reinstatement for 2 years from the date the vendor's application for reinstatement is denied.

(E) The Illinois Department may recover money improperly or erroneously paid, or overpayments, either by setoff, crediting against future billings or by requiring direct repayment to the Illinois Department.

If the Illinois Department ~~of Public Aid~~ establishes through an administrative hearing that the overpayments resulted from the vendor or alternate payee willfully making, or causing to be made, a false statement or misrepresentation of a material fact in connection with billings and payments under the medical assistance program under Article V, the Department may recover interest on the amount of the overpayments at the rate of 5% per annum. For purposes of this paragraph, "willfully" means that a person makes a statement or representation with actual knowledge that it was false, or makes a statement or representation with knowledge of facts or information that would cause one to be aware that the statement or representation was false when made.

(F) The Illinois Department may withhold payments to any vendor or alternate payee during the pendency of any proceeding under this Section. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be withheld during the pendency of any proceeding under this Section. Payments may be denied for bills submitted with service dates occurring during the pendency of a proceeding where the final administrative decision is to terminate eligibility to participate in the medical assistance program. The Illinois Department shall state by rule with as much specificity as practicable the conditions under which payments will not be denied for such bills. The Illinois Department ~~of Public Aid~~ shall state by rule a process and criteria by which a vendor or alternate payee may request full or partial release of payments withheld under this subsection. The Department must complete a proceeding under this Section in a timely manner.

(F-5) The Illinois Department may temporarily withhold payments to a vendor or alternate payee if any of the following individuals have been indicted or otherwise charged under a law of the United States or this or any other state with a felony offense that is based on alleged fraud or willful misrepresentation on the part of the individual related to (i) the medical assistance program under Article V of this Code, (ii) a medical assistance program provided in another state which is of the kind provided under Article V of this Code, (iii) the Medicare program under Title XVIII of the Social Security Act, or (iv) the provision of health care services:

(1) If the vendor or alternate payee is a corporation: an officer of the corporation or an individual who owns, either directly or indirectly, 5% or more of the shares of stock or other evidence of ownership of the corporation.

(2) If the vendor is a sole proprietorship: the owner of the sole proprietorship.

(3) If the vendor or alternate payee is a partnership: a partner in the partnership.

(4) If the vendor or alternate payee is any other business entity authorized by law to transact business in this State: an officer of the entity or an individual who owns, either directly or indirectly, 5% or more of the evidences of ownership of the entity.

If the Illinois Department withholds payments to a vendor or alternate payee under this subsection, the Department shall not release those payments to the vendor or alternate payee while any criminal proceeding related to the indictment or charge is pending unless the Department determines that there is good cause to release the payments before completion of the proceeding. If the indictment or charge results in the individual's conviction, the Illinois Department shall retain all withheld payments, which shall be considered forfeited to the Department. If the indictment or charge does not result in the individual's conviction, the Illinois Department shall release to the vendor or alternate payee all withheld payments.

(G) The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Illinois Department under this Section. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(G-5) Non-emergency transportation.

(1) Notwithstanding any other provision in this Section, for non-emergency transportation vendors, the Department may terminate the vendor from participation in the medical assistance program prior to an evidentiary hearing but after reasonable notice and opportunity to respond as established by the Department by rule.

(2) Vendors of non-emergency medical transportation services, as defined by the Department by rule, shall submit to a fingerprint-based criminal background check on current and future information available in the State system and current information available through the Federal Bureau of Investigation's system by submitting all necessary fees and information in the form and

manner prescribed by the Department of State Police. The following individuals shall be subject to the check:

(A) In the case of a vendor that is a corporation, every shareholder who owns, directly or indirectly, 5% or more of the outstanding shares of the corporation.

(B) In the case of a vendor that is a partnership, every partner.

(C) In the case of a vendor that is a sole proprietorship, the sole proprietor.

(D) Each officer or manager of the vendor.

Each such vendor shall be responsible for payment of the cost of the criminal background check.

(3) Vendors of non-emergency medical transportation services may be required to post a surety bond. The Department shall establish, by rule, the criteria and requirements for determining when a surety bond must be posted and the value of the bond.

(4) The Department, or its agents, may refuse to accept requests for non-emergency transportation authorizations, including prior-approval and post-approval requests, for a specific non-emergency transportation vendor if:

(A) the Department has initiated a notice of termination of the vendor from participation in the medical assistance program; or

(B) the Department has issued notification of its withholding of payments pursuant to subsection (F-5) of this Section; or

(C) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation.

(H) Nothing contained in this Code shall in any way limit or otherwise impair the authority or power of any State agency responsible for licensing of vendors.

(I) Based on a finding of noncompliance on the part of a nursing home with any requirement for certification under Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department may impose one or more of the following remedies after notice to the facility:

(1) Termination of the provider agreement.

(2) Temporary management.

(3) Denial of payment for new admissions.

(4) Civil money penalties.

(5) Closure of the facility in emergency situations or transfer of residents, or both.

(6) State monitoring.

(7) Denial of all payments when the Health Care Finance Administration has imposed this sanction.

The Illinois Department shall by rule establish criteria governing continued payments to a nursing facility subsequent to termination of the facility's provider agreement if, in the sole discretion of the Illinois Department, circumstances affecting the health, safety, and welfare of the facility's residents require those continued payments. The Illinois Department may condition those continued payments on the appointment of temporary management, sale of the facility to new owners or operators, or other arrangements that the Illinois Department determines best serve the needs of the facility's residents.

Except in the case of a facility that has a right to a hearing on the finding of noncompliance before an agency of the federal government, a facility may request a hearing before a State agency on any finding of noncompliance within 60 days after the notice of the intent to impose a remedy. Except in the case of civil money penalties, a request for a hearing shall not delay imposition of the penalty. The choice of remedies is not appealable at a hearing. The level of noncompliance may be challenged only in the case of a civil money penalty. The Illinois Department shall provide by rule for the State agency that will conduct the evidentiary hearings.

The Illinois Department may collect interest on unpaid civil money penalties.

The Illinois Department may adopt all rules necessary to implement this subsection (I).

(J) The Illinois Department, by rule, may permit individual practitioners to designate that Department payments that may be due the practitioner be made to an alternate payee or alternate payees.

(a) Such alternate payee or alternate payees shall be required to register as an alternate payee in the Medical Assistance Program with the Illinois Department.

(b) If a practitioner designates an alternate payee, the alternate payee and practitioner shall be jointly and severally liable to the Department for payments made to the alternate payee. Pursuant to subsection (E) of this Section, any Department action to recover money or overpayments from an alternate payee shall be subject to an administrative hearing.

(c) Registration as an alternate payee or alternate payees in the Illinois Medical

Assistance Program shall be conditional. At any time, the Illinois Department may deny or cancel any alternate payee's registration in the Illinois Medical Assistance Program without cause. Any such denial or cancellation is not subject to an administrative hearing.

(d) The Illinois Department may seek a revocation of any alternate payee, and all owners, officers, and individuals with management responsibility for such alternate payee shall be permanently prohibited from participating as an owner, an officer, or an individual with management responsibility with an alternate payee in the Illinois Medical Assistance Program, if after reasonable notice and opportunity for a hearing the Illinois Department finds that:

(1) the alternate payee is not complying with the Department's policy or rules and regulations, or with the terms and conditions prescribed by the Illinois Department in its alternate payee registration agreement; or

(2) the alternate payee has failed to keep or make available for inspection, audit, or copying, after receiving a written request from the Illinois Department, such records regarding payments claimed as an alternate payee; or

(3) the alternate payee has failed to furnish any information requested by the Illinois Department regarding payments claimed as an alternate payee; or

(4) the alternate payee has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Illinois Medical Assistance Program; or

(5) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) was previously terminated from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code; or

(b) was a person with management responsibility for a vendor previously terminated from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination or alternate payee's revocation; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor previously terminated from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination; or

(d) was an owner of a sole proprietorship or partner in a partnership previously terminated from participation as a vendor in the Illinois Medical Assistance Program, or was previously revoked as an alternate payee in the Illinois Medical Assistance Program, or was terminated from participation as a vendor in a medical assistance program in another state that is of the same kind as the program of medical assistance provided under Article V of this Code, during the time of conduct which was the basis for that vendor's termination or alternate payee's revocation; or

(6) the alternate payee, a person with management responsibility for an alternate payee, an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate alternate payee, or a partner in a partnership which is an alternate payee:

(a) has engaged in conduct prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(b) was a person with management responsibility for a vendor or alternate payee at the time that the vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(c) was an officer, or person owning, either directly or indirectly, 5% or more

of the shares of stock or other evidences of ownership in a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(d) was an owner of a sole proprietorship or partner in a partnership which was a vendor or alternate payee at the time such vendor or alternate payee engaged in practices prohibited by applicable federal or State law or regulation relating to the Illinois Medical Assistance Program; or

(7) the direct or indirect ownership of the vendor or alternate payee (including the ownership of a vendor or alternate payee that is a partner's interest in a vendor or alternate payee, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor or alternate payee) has been transferred by an individual who is terminated or barred from participating as a vendor or is prohibited or revoked as an alternate payee to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

(K) The Illinois Department of Healthcare and Family Services may withhold payments, in whole or in part, to a provider or alternate payee upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance program. The Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold such payments.

(a) The Illinois Department must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning its ongoing investigation. The notice must do all of the following:

(1) State that payments are being withheld in accordance with this subsection.

(2) State that the withholding is for a temporary period, as stated in paragraph (b) of this subsection, and cite the circumstances under which withholding will be terminated.

(3) Specify, when appropriate, which type or types of Medicaid claims withholding is effective.

(4) Inform the provider or alternate payee of the right to submit written evidence for consideration by the Illinois Department.

(b) All withholding-of-payment actions under this subsection shall be temporary and shall not continue after any of the following:

(1) The Illinois Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.

(2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, violations of this Act, or violations of the Illinois Department's administrative rules are completed.

(c) The Illinois Department may adopt all rules necessary to implement this subsection (K).
(Source: P.A. 94-265, eff. 1-1-06; revised 12-15-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 951

AMENDMENT NO. _2_. Amend Senate Bill 951, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 5, between lines 15 and 16, by inserting the following:

"(A-10) The Illinois Department may deny, suspend, or terminate the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to recipients under the medical assistance program under Article V if, after reasonable notice and opportunity for a hearing, the Illinois Department finds that (i) the vendor, (ii) a person with management responsibility for a vendor, (iii) an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, (iv) an owner of a sole proprietorship that is a vendor, or (v) a partner in a partnership that is a vendor has been convicted of a felony offense related to any of the following:

(1) Murder.

(2) A Class X felony under the Criminal Code of 1961.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Schoenberg, **Senate Bill No. 951**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Meeks	Schoenberg
Axley	Garrett	Millner	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Radogno	Trotter
Cronin	Jacobs	Raoul	Viverito
Crotty	Jones, J.	Rauschenberger	Watson
Cullerton	Jones, W.	Righter	Wilhelmi
Dahl	Lauzen	Risinger	Mr. President
del Valle	Lightford	Ronen	
DeLeo	Link	Roskam	
Demuzio	Maloney	Rutherford	
Dillard	Martinez	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 and ask their concurrence therein.

Senator Harmon asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 951.**

On motion of Senator Meeks, **Senate Bill No. 1839**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

Yeas 28; Nays 26; Present 1.

The following voted in the affirmative:

Axley	Dillard	Meeks	Trotter
Bomke	Garrett	Radogno	Viverito
Clayborne	Geo-Karis	Raoul	Wilhelmi
Collins	Harmon	Rauschenberger	Mr. President
Cronin	Hendon	Ronen	
Crotty	Hunter	Sandoval	
Cullerton	Lightford	Schoenberg	
del Valle	Martinez	Silverstein	

The following voted in the negative:

Brady	Jones, J.	Pankau	Shadid
Burzynski	Jones, W.	Peterson	Sieben
Dahl	Lauzen	Petka	Sullivan
DeLeo	Link	Righter	Syverson
Forby	Luechtefeld	Risinger	Watson
Haine	Maloney	Roskam	
Jacobs	Millner	Rutherford	

The following voted present:

Munoz

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

CONSIDERATION OF SENATE BILL ON CONSIDERATION POSTPONED

On motion of Senator Link, **Senate Bill No. 2246,** having been read by title a third time on February 28, 2006, and pending roll call further consideration postponed, was taken up again on third reading.

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

Yeas 27; Nays 27; Present 1.

The following voted in the affirmative:

Clayborne	Halvorson	Maloney	Schoenberg
Collins	Harmon	Martinez	Shadid
Crotty	Hendon	Meeks	Silverstein
Cullerton	Hunter	Munoz	Trotter
del Valle	Jacobs	Raoul	Viverito
DeLeo	Lightford	Ronen	Mr. President
Garrett	Link	Sandoval	

The following voted in the negative:

Althoff	Forby	Pankau	Roskam
Axley	Geo-Karis	Peterson	Rutherford
Bomke	Haine	Petka	Sieben
Brady	Jones, J.	Radogno	Sullivan
Burzynski	Jones, W.	Rauschenberger	Syverson
Cronin	Luechtefeld	Righter	Watson
Dahl	Millner	Risinger	

The following voted present:

Dillard

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost.

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

March 2, 2005

Ms. Linda Hawker
Secretary of the Senate
Room 403 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish January 9, 2007 as the Third Reading deadline for the following Senate bills:

1835, 2123, 2310, 2394, 2412, 2415, 2515, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2561, 2619, 2654, 2672, 2770, 2777, 2845, 2955, 2959, 2978, 2983, 3053 and 3056.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

COMMUNICATION

Illinois State Senate
Don Harmon
Senator
39th District

March 2, 2006

The Honorable Linda Hawker
Secretary of the Senate
Room 403 Capitol Building
Springfield, IL 62706

Madame Secretary:

This afternoon, I voted "yes" on Senate Bill 3086, relating to eminent domain. While I do not believe that my vote raises a conflict of interest, I would ask that the record reflect that the law firm that employs me does represent clients in condemnation matters. Please let the record so reflect.

Sincerely,
s/Don Harmon

MOTION IN WRITING

Senator Geo-Karis submitted the following Motion in Writing:

MOTION

Pursuant to Senate Rule 7-15, having voted on the prevailing side, I move to reconsider the vote by which Senate Bill 2369 passed.

Date: March 2, 2006 s/Senator Adeline Geo-Karis

The foregoing Motion in Writing was filed with the Secretary and placed on the Senate Calendar.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2734
A bill for AN ACT concerning civil law.
HOUSE BILL NO. 4342
A bill for AN ACT concerning property.
HOUSE BILL NO. 4396
A bill for AN ACT concerning public health.
HOUSE BILL NO. 4405
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4521
A bill for AN ACT concerning transportation.
Passed the House, March 2, 2006.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 2734, 4342, 4396, 4405 and 4521** were taken up, ordered printed and placed on first reading.

INTRODUCTION OF BILLS

SENATE BILL NO. 3176. Introduced by Senator Righter, a bill for AN ACT concerning biomedical research.
The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

PRESENTATION OF RESOLUTIONS

Senators Sandoval - Hendon offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 664

WHEREAS, The Southwest Side of Chicago, with a racially diverse population, suffers from a crisis in overcrowded schools; and

WHEREAS, Every school day thousands of children on the Southwest Side of Chicago are bussed from their homes to distant neighborhoods because their neighborhood schools are absolutely filled with students; and

WHEREAS, A brand new high school campus, the Little Village Lawndale High School Campus, opened in September of 2005 at a cost of at least $67 million but only serves 400 students from North Lawndale and Little Village today; and

WHEREAS, The four schools at the Little Village Lawndale High School Campus plan to enroll only another 340 freshman students next year, as the 400 current freshman students become sophomores; and

WHEREAS, Only one additional class of students will be enrolled at the four schools at the Campus so that the Little Village Lawndale High School Campus will not be at full enrollment until September of 2008; and

WHEREAS, The Little Village Lawndale High School Campus reflects the faces of the neighborhoods and enjoys a diverse student body; and

WHEREAS, Racial and ethnic diversity enhances the educational experience of all students; and

WHEREAS, Each of the four autonomous high schools in the Campus is scheduled to serve only 400 students for a total of 1,600 students served at the Campus; and

WHEREAS, There are far more than 1,600 students in North Lawndale and Little Village who need the educational resources of the Little Village Lawndale High School Campus; and

WHEREAS, Ethnic diversity in the schools provides children with tremendous learning opportunities and remains a federal mandate for the Chicago Public Schools; and

WHEREAS, A diverse student body with different races, religions, ethnic backgrounds, and socio-economic backgrounds is consistent with the highest ideals of the United States of America and is a precious benefit to protect in the Chicago Public Schools and in the Little Village and North Lawndale neighborhoods; and

WHEREAS, Politics should play no role in determining which students from the neighborhoods of North Lawndale and Little Village get access to the world-class facilities of the Campus; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the Chicago Public Schools to recognize the crisis of overcrowding and fill the Little Village Lawndale High School Campus to its full capacity of 1,600 students in September of 2006, and not to wait until 2008 to fill the school in order to end the insult of empty classrooms and full busses; and be it further

RESOLVED, That the racial and ethnic diversity of the Little Village Lawndale High School Campus should be protected and enhanced as a valuable educational component for all students; and be it further

RESOLVED, That the attendance boundary of the Campus should be moved farther east, from the current boundary of Pulaski Avenue, in order to provide more opportunities for children in both the North Lawndale and Little Village neighborhoods; and be it further

RESOLVED, That we urge the Chicago Public Schools to expand the maximum enrollment of the Campus beyond 400 students per high school to a more reasonable and appropriate level to serve more children from North Lawndale and Little Village without sacrificing educational quality.

Senators Sandoval - del Valle - Martinez - Munoz offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 665

WHEREAS, The United States House of Representatives passed H.R.4437, the Sensenbrenner immigration bill, that would criminalize the undocumented, their employers, and asylum-seekers alike, tear apart families, and needlessly devastate our economy; and

WHEREAS, The United States of America was founded by immigrants who traveled from around the

world to seek a better life; and

WHEREAS, The United States has an undocumented population of 11 million immigrants, including half a million in Illinois; and

WHEREAS, Illinois immigrants fill key roles in our economy such as paying taxes, including contributions to Social Security that they cannot receive back, raising families, and contributing to our schools, churches, neighborhoods, and communities; and

WHEREAS, Our current immigration system contributes to long backlogs, labor abuses, countless deaths on the border, and vigilante violence and is in dire need of reform to meet the challenges of the 21st century; and

WHEREAS, Any comprehensive reform must involve a path to citizenship for these hardworking immigrants, as well as reunification of families and a safe and orderly process for enabling willing immigrant workers to fill essential jobs in our economy and ensure full labor rights; and

WHEREAS, The immigration initiative severely punishes illegal employment practices while creating a path to earned permanent legal status for individuals who have been working in the United States, paying taxes, obeying the law, and learning English, and protecting workers by ensuring the right to change jobs, join a union, and report abusive employment situations; and

WHEREAS, Modernizing our antiquated and dysfunctional immigration system will uphold our nation's basic values of fairness, equal opportunity, and respect for the law; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the Illinois Congressional Delegation and all of Congress to support "The Secure America and Orderly Immigration Act of 2005" (S.1033 and H.R.2330), which allows every hardworking, law-abiding individual to achieve the American Dream; and be it further

RESOLVED, That copies of this resolution be delivered to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, and each member of the Illinois Congressional Delegation.

SENATE RESOLUTION 666

Offered by Senator Collins and all Senators:
Mourns the death of Rona Suzanne Bostic.

SENATE RESOLUTION 667

Offered by Senators Viverito – E. Jones and all Senators:
Mourns the death of Helen Perry.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

RESOLUTIONS CONSENT CALENDAR

SENATE RESOLUTION 661

Offered by Senator Shadid and all Senators:
Mourns the death of Richard “Dick” Lawless of Bartonville.

SENATE RESOLUTION 663

Offered by Senator Wilhelmi and all Senators:
Mourns the death of John H. Allen of Joliet.

SENATE RESOLUTION 666

Offered by Senator Collins and all Senators:
Mourns the death of Rona Suzanne Bostic.

SENATE RESOLUTION 667

Offered by Senators Viverito – E. Jones and all Senators:
Mourns the death of Helen Perry.

HOUSE JOINT RESOLUTION 55

Offered by Senator Dillard and all Senators:
Mourns the death of Andrew H. Melczer, Ph.D.

The Chair moved the adoption of the foregoing resolutions. The motion prevailed, and the resolutions were adopted.

PRESENTATION OF RESOLUTION

Senator del Valle offered the following Senate Joint Resolution and, having asked and obtained unanimous consent to suspend the rules for its immediate consideration, moved its adoption:

SENATE JOINT RESOLUTION NO. 81

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that when the Senate adjourns on Thursday, March 02, 2006, it stands adjourned until Tuesday, March 07, 2006 at 12:00 o'clock noon; and when the House of Representatives adjourns on Friday, March 03, 2006, it stands adjourned until Tuesday, March 14, 2006 at 1:00 o'clock p.m.

The motion prevailed.
And the resolution was adopted.
Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 3:56 o'clock p.m., pursuant to **Senate Joint Resolution No. 81**, the Chair announced the Senate stand adjourned until Tuesday, March 7, 2006, at 12:00 o'clock noon.

At the hour of 5:16 p.m., the Senate reconvened in perfunctory session.
Honorable Senator Emil Jones, Jr., President of the Senate, presiding.

MESSAGE FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

March 2, 2005

Ms. Linda Hawker
Secretary of the Senate
Room 403 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 2-10, I am scheduling a perfunctory session at 4:30 p.m. on Thursday, March 2, 2006.

Very truly yours,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

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 passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4523
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 4527
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4703
A bill for AN ACT concerning military personnel.
HOUSE BILL NO. 4715
A bill for AN ACT concerning housing.
HOUSE BILL NO. 4726
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 4532
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 4727
A bill for AN ACT concerning transportation.
HOUSE BILL NO. 4735
A bill for AN ACT concerning revenue.
HOUSE BILL NO. 4657
A bill for AN ACT concerning transportation.
Passed the House, March 2, 2006.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4523, 4527, 4703, 4715, 4726, 4532, 4727, 4735 and 4657** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 84

WHEREAS, The stability and livelihood of farms and family farmers, the food and fiber industry, and the food processing, commodity marketing, and agriculture-related industries of this State have been endangered by severe drought conditions during the 2005 growing season; and

WHEREAS, On July 27th, 2005, United States Department of Agriculture Secretary Mike Johanns designated 102 Illinois counties as agriculture disaster areas due to the drought, and the United States Drought Monitor indicates that Illinois remains in an extreme drought that has greatly impacted the productivity of Illinois crops and this State's economy; and

WHEREAS, Illinois' food and fiber industry employs nearly one million people, food processing is the State's number-one manufacturing activity adding almost $13.4 billion annually to the value of

Illinois' raw agricultural commodities, and the marketing of Illinois' agricultural commodities generates more than $9 billion annually for the State economy; and

WHEREAS, Billions more dollars flow into this State's economy from agriculture-related industries, such as farm machinery manufacturing, agricultural real estate, and production and sale of value-added food products, which employ millions of people; and

WHEREAS, The declaration of Illinois counties as agriculture disaster areas due to the drought allows some indirect relief to qualified producers in the form of eligibility for low interest federal and State emergency loan programs that allow producers to borrow moneys for production and physical losses; notwithstanding these programs, a comprehensive national Crop Disaster Program that authorizes direct disaster payments to producers could provide better, more immediate, and more uniform protection to farmers against natural disasters and drought conditions; and

WHEREAS, It is in the best interests of the State of Illinois and the United States to provide the best protections available to the vital agricultural sector of our economy; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we urge the United States Congress to promote and protect agriculture in Illinois and throughout the United States by passing a comprehensive national Crop Disaster Program that includes direct disaster payments to producers and that includes disaster payments to Illinois producers who suffered a loss during the 2005 growing season; and be it further

RESOLVED, That a suitable copy of this resolution be presented to each member of the Illinois Congressional delegation, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, and the President of the United States.

Adopted by the House, March 1, 2006.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 84 was referred to the Committee on Rules.

At the hour of 5:20 o'clock p.m., the Chair announced the Senate stand adjourned until Tuesday, March 2, 2006, at 12:00 o'clock noon.