



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SIXTH GENERAL ASSEMBLY

58TH LEGISLATIVE DAY

THURSDAY, MAY 28, 2009

9:29 O'CLOCK A.M.

SENATE
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58th Legislative Day

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The Senate met pursuant to adjournment.
Senator Tony Muñoz, Chicago, Illinois, presiding.
Prayer by Rabbi Barry Marks, Temple Israel, Springfield, Illinois.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, May 27, 2009, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

Annual Report of Breach of Security of System Data, submitted by Department of Central Management Services and the Department of Financial and Professional Regulation.

The foregoing report was ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to Senate Bill 2196

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

Senate Committee Amendment No. 4 to House Bill 3923

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

Senate Floor Amendment No. 1 to House Bill 7
Senate Floor Amendment No. 2 to House Bill 7
Senate Floor Amendment No. 3 to House Bill 7
Senate Floor Amendment No. 2 to House Bill 3718

PRESENTATION OF RESOLUTION

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

SENATE RESOLUTION NO. 306

WHEREAS, On May 26, 2009, President Barack Obama nominated Judge Sonia Sotomayor of the U.S. Court of Appeals for the Second Circuit to serve as a Justice of the United States Supreme Court; and

WHEREAS, President Barack Obama has demonstrated excellent vision in nominating a Hispanic with such deep experience to the United States Supreme Court; and

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WHEREAS, Judge Sotomayor's upbringing serves as an inspiration to all, with a life story that includes being raised by a single mother from Puerto Rico in public housing in Bronx, New York; and

WHEREAS, Judge Sotomayor attended Princeton University and graduated summa cum laude; and

WHEREAS, Judge Sotomayor graduated from Yale Law School, where she served as editor of the Yale Law Journal; and

WHEREAS, In 1978, Judge Sotomayor served as Assistant District Attorney in New York, fearlessly and effectively prosecuting dozens of criminal cases; and

WHEREAS, In 1984, Judge Sotomayor served as a partner in a prestigious law firm in New York, primarily representing prominent corporations engaged in international business; and

WHEREAS, In 1992, Judge Sotomayor was appointed by President George H.W. Bush to serve on the United States District Court for the Southern District of New York; and

WHEREAS, In 1998, Judge Sotomayor was appointed by President Bill Clinton to serve on the U.S. Court of Appeals for the Second Circuit, the first Hispanic to serve on the Second Circuit, one of the most demanding circuits in the nation; and

WHEREAS, Judge Sotomayor has more federal judicial experience than any nominee in the last 100 years; and

WHEREAS, If confirmed, Judge Sotomayor's ascension to the United States Supreme Court would represent a monumental step for America and a better reflection of our national diversity, as she would be the first Hispanic and only the third woman in history to serve as a Justice of the Supreme Court; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate Judge Sotomayor for this incredible honor and thank her for serving as a role model to all Americans, but particularly women and Latinas; and be it further

RESOLVED, That we congratulate our President and former colleague Barack Obama for his wisdom in selecting Judge Sotomayor; and be it further

RESOLVED, That we call upon the United States Senate to confirm Judge Sotomayor after full and fair consideration of her long and distinguished career, consistent with the Senate's constitutional obligation to fully and properly review all judicial nominees submitted by the President of the United States; and be it further

RESOLVED, That suitable copies of this resolution be presented to Judge Sonia Sotomayor and all members of the United States Senate.

MESSAGES FROM THE HOUSE

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

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

SENATE BILL NO. 450

A bill for AN ACT concerning revenue.

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

House Amendment No. 1 to SENATE BILL NO. 450

House Amendment No. 2 to SENATE BILL NO. 450

Passed the House, as amended, May 27, 2009.

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AMENDMENT NO. 1 TO SENATE BILL 450

AMENDMENT NO. 1. Amend Senate Bill 450 by replacing everything after the enacting clause with the following:

"Section 5. The Use Tax Act is amended by changing Section 1 as follows:
(35 ILCS 105/1) (from Ch. 120, par. 439.1)

Sec. 1. This Act shall be known ~~and~~ and may be cited as the "Use Tax Act".
(Source: Laws 1955, p. 2027)."

AMENDMENT NO. 2 TO SENATE BILL 450

AMENDMENT NO. 2. Amend Senate Bill 450, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. 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,

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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. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(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) Beginning January 1, 2001 and through June 30, 2011, 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 January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 10. 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. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

(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) Beginning August 23, 2001 and through June 30, 2011, 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 January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 15. 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.

[May 28, 2009]

(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) Beginning January 1, 1992 and through June 30, 2011, 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. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(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 and through June 30, 2011, 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 January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 20. The 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:

[May 28, 2009]

(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. This paragraph is exempt from the provisions of Section 2-70.

(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.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(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. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(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) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to

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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 and through June 30, 2011, 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.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)"

Under the rules, the foregoing **Senate Bill No. 450**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1298

A bill for AN ACT concerning gaming.

[May 28, 2009]

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

House Amendment No. 1 to SENATE BILL NO. 1298
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1298

AMENDMENT NO. 1. Amend Senate Bill 1298 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Horse Racing Act of 1975 is amended by changing Sections 3.071, 3.077, 3.12, 3.20, 3.22, 3.23, 26, and 27 and by adding Sections 3.28, 3.29, and 3.30 as follows:

(230 ILCS 5/3.071) (from Ch. 8, par. 37-3.071)

Sec. 3.071. Inter-track wagering. "Inter-track Wagering" means a legal wager on the outcome of a simultaneously televised horse race taking place at an Illinois race track placed or accepted at any location authorized to accept wagers under this Act, excluding the Illinois race track at which that horse race is being conducted and excluding advance deposit wagering through an advance deposit wagering license.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.077)

Sec. 3.077. Non-host licensee. "Non-host licensee" means a licensee operating concurrently with a host track, but does not include an advance deposit wagering licensee.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.12) (from Ch. 8, par. 37-3.12)

Sec. 3.12. Pari-mutuel system of wagering. "Pari-mutuel system of wagering" means a form of wagering on the outcome of horse races in which wagers are made in various denominations on a horse or horses and all wagers for each race are pooled and held by a licensee for distribution in a manner approved by the Board. Wagers may be placed via any method or at any location authorized under this Act.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.20)

Sec. 3.20. Licensee. "Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as the context of this Act requires.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.22)

Sec. 3.22. Wagering facility. "Wagering facility" means any location at which a licensee, other than an advance deposit wagering licensee, may accept or receive pari-mutuel wagers under this Act.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.23)

Sec. 3.23. Wagering. "Wagering" means, collectively, the pari-mutuel system of wagering, inter-track wagering, and simulcast wagering, and advance deposit wagering.

(Source: P.A. 89-16, eff. 5-30-95.)

(230 ILCS 5/3.28 new)

Sec. 3.28. Advance deposit wagering licensee. "Advance deposit wagering licensee" means a person licensed by the Board to conduct advance deposit wagering. An advance deposit wagering licensee shall be an organization licensee or a person or third party who contracts with an organization licensee in order to conduct advance deposit wagering.

(230 ILCS 5/3.29 new)

Sec. 3.29. Advance deposit wagering. "Advance deposit wagering" means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering authorized by this Act. An advance deposit wager may be placed in person at a wagering facility or from any other location via a telephone-type device or any other electronic means. Any person who accepts an advance deposit wager who is not licensed by the Board as an advance deposit wagering licensee shall be considered in violation of this Act and the Criminal Code of 1961. Any advance deposit wager placed in person at a wagering facility shall be deemed to have been placed at that wagering facility.

(230 ILCS 5/3.30 new)

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Sec. 3.30. Advance deposit wagering terminal. "Advance deposit wagering terminal" means any electronic device placed by an advanced deposit wagering licensee at a wagering facility that facilitates the placement of an advance deposit wager and that can be electronically tracked so the location of the wagering facility where the advance deposit wagering terminal is located can be readily identified and so all wagers placed through the advance deposit wagering terminal are easily reportable.

(230 ILCS 5/26) (from Ch. 8, par. 37-26)

Sec. 26. Wagering.

(a) Any licensee may conduct and supervise the pari-mutuel system of wagering, as defined in Section 3.12 of this Act, on horse races conducted by an Illinois organization licensee or conducted at a racetrack located in another state or country and televised in Illinois in accordance with subsection (g) of Section 26 of this Act. Subject to the prior consent of the Board, licensees may supplement any pari-mutuel pool in order to guarantee a minimum distribution. Such pari-mutuel method of wagering shall not, under any circumstances if conducted under the provisions of this Act, be held or construed to be unlawful, other statutes of this State to the contrary notwithstanding. Subject to rules for advance wagering promulgated by the Board, any licensee may accept wagers in advance of the day of the race wagered upon occurs.

(b) No other method of betting, pool making, wagering or gambling shall be used or permitted by the licensee. Each licensee may retain, subject to the payment of all applicable taxes and purses, an amount not to exceed 17% of all money wagered under subsection (a) of this Section, except as may otherwise be permitted under this Act.

(b-5) An individual may place a wager under the pari-mutuel system from any licensed location authorized under this Act provided that wager is electronically recorded in the manner described in Section 3.12 of this Act. Any wager made electronically by an individual while physically on the premises of a licensee shall be deemed to have been made at the premises of that licensee.

(c) Until January 1, 2000, the sum held by any licensee for payment of outstanding pari-mutuel tickets, if unclaimed prior to December 31 of the next year, shall be retained by the licensee for payment of such tickets until that date. Within 10 days thereafter, the balance of such sum remaining unclaimed, less any uncashed supplements contributed by such licensee for the purpose of guaranteeing minimum distributions of any pari-mutuel pool, shall be paid to the Illinois Veterans' Rehabilitation Fund of the State treasury, except as provided in subsection (g) of Section 27 of this Act.

(c-5) Beginning January 1, 2000, the sum held by any licensee for payment of outstanding pari-mutuel tickets, if unclaimed prior to December 31 of the next year, shall be retained by the licensee for payment of such tickets until that date. Within 10 days thereafter, the balance of such sum remaining unclaimed, less any uncashed supplements contributed by such licensee for the purpose of guaranteeing minimum distributions of any pari-mutuel pool, shall be evenly distributed to the purse account of the organization licensee and the organization licensee.

(d) A pari-mutuel ticket shall be honored until December 31 of the next calendar year, and the licensee shall pay the same and may charge the amount thereof against unpaid money similarly accumulated on account of pari-mutuel tickets not presented for payment.

(e) No licensee shall knowingly permit any minor, other than an employee of such licensee or an owner, trainer, jockey, driver, or employee thereof, to be admitted during a racing program unless accompanied by a parent or guardian, or any minor to be a patron of the pari-mutuel system of wagering conducted or supervised by it. The admission of any unaccompanied minor, other than an employee of the licensee or an owner, trainer, jockey, driver, or employee thereof at a race track is a Class C misdemeanor.

(f) Notwithstanding the other provisions of this Act, an organization licensee may contract with an entity in another state or country to permit any legal wagering entity in another state or country to accept wagers solely within such other state or country on races conducted by the organization licensee in this State. Beginning January 1, 2000, these wagers shall not be subject to State taxation. Until January 1, 2000, when the out-of-State entity conducts a pari-mutuel pool separate from the organization licensee, a privilege tax equal to 7 1/2% of all monies received by the organization licensee from entities in other states or countries pursuant to such contracts is imposed on the organization licensee, and such privilege tax shall be remitted to the Department of Revenue within 48 hours of receipt of the moneys from the simulcast. When the out-of-State entity conducts a combined pari-mutuel pool with the organization licensee, the tax shall be 10% of all monies received by the organization licensee with 25% of the receipts from this 10% tax to be distributed to the county in which the race was conducted.

An organization licensee may permit one or more of its races to be utilized for pari-mutuel wagering at one or more locations in other states and may transmit audio and visual signals of races the organization licensee conducts to one or more locations outside the State or country and may also permit pari-mutuel pools in other states or countries to be combined with its gross or net wagering pools or with

wagering pools established by other states.

(g) A host track may accept interstate simulcast wagers on horse races conducted in other states or countries and shall control the number of signals and types of breeds of racing in its simulcast program, subject to the disapproval of the Board. The Board may prohibit a simulcast program only if it finds that the simulcast program is clearly adverse to the integrity of racing. The host track simulcast program shall include the signal of live racing of all organization licensees. All non-host licensees and advance deposit wagering licensees shall carry the signal of and accept wagers on live racing of all organization licensees. Advance deposit wagering licensees shall not be permitted to accept out-of-state wagers on any Illinois signal provided pursuant to this Section without the approval and consent of the organization licensee providing the signal. Non-host licensees may carry the host track simulcast program and shall accept wagers on all races included as part of the simulcast program upon which wagering is permitted. All organization licensees shall provide their live signal to all advance deposit wagering licensees for a simulcast commission fee not to exceed 6% of the advance deposit wagering licensee's Illinois handle on the organization licensee's signal without prior approval by the Board. The Board may adopt rules under which it may permit simulcast commission fees in excess of 6%. The Board shall adopt rules limiting the interstate commission fees charged to an advance deposit wagering licensee. The Board shall adopt rules regarding advance deposit wagering on interstate simulcast races that shall reflect, among other things, the General Assembly's desire to maximize revenues to the State, horsemen purses, and organization licensees. However, organization licensees providing live signals pursuant to the requirements of this subsection (g) may petition the Board to withhold their live signals from an advance deposit wagering licensee if the organization licensee discovers and the Board finds reputable or credible information that the advance deposit wagering licensee is under investigation by another state or federal governmental agency, the advance deposit wagering licensee's license has been suspended in another state, or the advance deposit wagering licensee's license is in revocation proceedings in another state. The organization licensee's provision of their live signal to an advance deposit wagering licensee under this subsection (g) pertains to wagers placed from within Illinois. Advance deposit wagering licensees may place advance deposit wagering terminals at wagering facilities as a convenience to customers. The advance deposit wagering licensee shall not charge or collect any fee from purses for the placement of the advance deposit wagering terminals. The costs and expenses of the host track and non-host licensees associated with interstate simulcast wagering, other than the interstate commission fee, shall be borne by the host track and all non-host licensees incurring these costs. The interstate commission fee shall not exceed 5% of Illinois handle on the interstate simulcast race or races without prior approval of the Board. The Board shall promulgate rules under which it may permit interstate commission fees in excess of 5%. The interstate commission fee and other fees charged by the sending racetrack, including, but not limited to, satellite decoder fees, shall be uniformly applied to the host track and all non-host licensees.

Notwithstanding any other provision of this Act, for a period of 3 years after the effective date of this amendatory Act of the 96th General Assembly, an organization licensee may maintain a system whereby advance deposit wagering may take place or an organization licensee, with the consent of the horsemen association representing the largest number of owners, trainers, jockeys, or standardbred drivers who race horses at that organization licensee's racing meeting, may contract with another person to carry out a system of advance deposit wagering. Such consent may not be unreasonably withheld. All advance deposit wagers placed from within Illinois must be placed through a Board-approved advance deposit wagering licensee; no other entity may accept an advance deposit wager from a person within Illinois. All advance deposit wagering is subject to any rules adopted by the Board. The Board may adopt rules necessary to regulate advance deposit wagering through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. The General Assembly finds that the adoption of rules to regulate advance deposit wagering is deemed an emergency and necessary for the public interest, safety, and welfare. An advance deposit wagering licensee may retain all moneys as agreed to by contract with an organization licensee. Any moneys retained by the organization licensee from advance deposit wagering, not including moneys retained by the advance deposit wagering licensee, shall be paid 50% to the organization licensee's purse account and 50% to the organization licensee. If more than one breed races at the same race track facility, then the 50% of the moneys to be paid to an organization licensee's purse account shall be allocated among all organization licensees' purse accounts operating at that race track facility proportionately based on the actual number of host days that the Board grants to that breed at that race track facility in the current calendar year. To the extent any fees from advance deposit wagering conducted in Illinois for wagers in Illinois or other states have been placed in escrow or otherwise withheld from wagers pending a determination of the legality of advance deposit wagering, no action shall be brought to declare such wagers or the disbursement of any fees previously escrowed illegal.

(1) Between the hours of 6:30 a.m. and 6:30 p.m. an intertrack wagering licensee other than the host track may supplement the host track simulcast program with additional simulcast races or race programs, provided that between January 1 and the third Friday in February of any year, inclusive, if no live thoroughbred racing is occurring in Illinois during this period, only thoroughbred races may be used for supplemental interstate simulcast purposes. The Board shall withhold approval for a supplemental interstate simulcast only if it finds that the simulcast is clearly adverse to the integrity of racing. A supplemental interstate simulcast may be transmitted from an intertrack wagering licensee to its affiliated non-host licensees. The interstate commission fee for a supplemental interstate simulcast shall be paid by the non-host licensee and its affiliated non-host licensees receiving the simulcast.

(2) Between the hours of 6:30 p.m. and 6:30 a.m. an intertrack wagering licensee other than the host track may receive supplemental interstate simulcasts only with the consent of the host track, except when the Board finds that the simulcast is clearly adverse to the integrity of racing. Consent granted under this paragraph (2) to any intertrack wagering licensee shall be deemed consent to all non-host licensees. The interstate commission fee for the supplemental interstate simulcast shall be paid by all participating non-host licensees.

(3) Each licensee conducting interstate simulcast wagering may retain, subject to the payment of all applicable taxes and the purses, an amount not to exceed 17% of all money wagered. If any licensee conducts the pari-mutuel system wagering on races conducted at racetracks in another state or country, each such race or race program shall be considered a separate racing day for the purpose of determining the daily handle and computing the privilege tax of that daily handle as provided in subsection (a) of Section 27. Until January 1, 2000, from the sums permitted to be retained pursuant to this subsection, each intertrack wagering location licensee shall pay 1% of the pari-mutuel handle wagered on simulcast wagering to the Horse Racing Tax Allocation Fund, subject to the provisions of subparagraph (B) of paragraph (11) of subsection (h) of Section 26 of this Act.

(4) A licensee who receives an interstate simulcast may combine its gross or net pools with pools at the sending racetracks pursuant to rules established by the Board. All licensees combining their gross pools at a sending racetrack shall adopt the take-out percentages of the sending racetrack. A licensee may also establish a separate pool and takeout structure for wagering purposes on races conducted at race tracks outside of the State of Illinois. The licensee may permit pari-mutuel wagers placed in other states or countries to be combined with its gross or net wagering pools or other wagering pools.

(5) After the payment of the interstate commission fee (except for the interstate commission fee on a supplemental interstate simulcast, which shall be paid by the host track and by each non-host licensee through the host-track) and all applicable State and local taxes, except as provided in subsection (g) of Section 27 of this Act, the remainder of moneys retained from simulcast wagering pursuant to this subsection (g), and Section 26.2 shall be divided as follows:

(A) For interstate simulcast wagers made at a host track, 50% to the host track and 50% to purses at the host track.

(B) For wagers placed on interstate simulcast races, supplemental simulcasts as defined in subparagraphs (1) and (2), and separately pooled races conducted outside of the State of Illinois made at a non-host licensee, 25% to the host track, 25% to the non-host licensee, and 50% to the purses at the host track.

(6) Notwithstanding any provision in this Act to the contrary, non-host licensees who derive their licenses from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River may receive supplemental interstate simulcast races at all times subject to Board approval, which shall be withheld only upon a finding that a supplemental interstate simulcast is clearly adverse to the integrity of racing.

(7) Notwithstanding any provision of this Act to the contrary, after payment of all applicable State and local taxes and interstate commission fees, non-host licensees who derive their licenses from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River shall retain 50% of the retention from interstate simulcast wagers and shall pay 50% to purses at the track from which the non-host licensee derives its license as follows:

(A) Between January 1 and the third Friday in February, inclusive, if no live thoroughbred racing is occurring in Illinois during this period, when the interstate simulcast is a standardbred race, the purse share to its standardbred purse account;

(B) Between January 1 and the third Friday in February, inclusive, if no live thoroughbred racing is occurring in Illinois during this period, and the interstate simulcast is a thoroughbred race, the purse share to its interstate simulcast purse pool to be distributed under

paragraph (10) of this subsection (g);

(C) Between January 1 and the third Friday in February, inclusive, if live thoroughbred racing is occurring in Illinois, between 6:30 a.m. and 6:30 p.m. the purse share from wagers made during this time period to its thoroughbred purse account and between 6:30 p.m. and 6:30 a.m. the purse share from wagers made during this time period to its standardbred purse accounts;

(D) Between the third Saturday in February and December 31, when the interstate simulcast occurs between the hours of 6:30 a.m. and 6:30 p.m., the purse share to its thoroughbred purse account;

(E) Between the third Saturday in February and December 31, when the interstate simulcast occurs between the hours of 6:30 p.m. and 6:30 a.m., the purse share to its standardbred purse account.

(7.1) Notwithstanding any other provision of this Act to the contrary, if no standardbred racing is conducted at a racetrack located in Madison County during any calendar year beginning on or after January 1, 2002, all moneys derived by that racetrack from simulcast wagering and inter-track wagering that (1) are to be used for purses and (2) are generated between the hours of 6:30 p.m. and 6:30 a.m. during that calendar year shall be paid as follows:

(A) If the licensee that conducts horse racing at that racetrack requests from the Board at least as many racing dates as were conducted in calendar year 2000, 80% shall be paid to its thoroughbred purse account; and

(B) Twenty percent shall be deposited into the Illinois Colt Stakes Purse Distribution Fund and shall be paid to purses for standardbred races for Illinois conceived and foaled horses conducted at any county fairgrounds. The moneys deposited into the Fund pursuant to this subparagraph (B) shall be deposited within 2 weeks after the day they were generated, shall be in addition to and not in lieu of any other moneys paid to standardbred purses under this Act, and shall not be commingled with other moneys paid into that Fund. The moneys deposited pursuant to this subparagraph (B) shall be allocated as provided by the Department of Agriculture, with the advice and assistance of the Illinois Standardbred Breeders Fund Advisory Board.

(7.2) Notwithstanding any other provision of this Act to the contrary, if no thoroughbred racing is conducted at a racetrack located in Madison County during any calendar year beginning on or after January 1, 2002, all moneys derived by that racetrack from simulcast wagering and inter-track wagering that (1) are to be used for purses and (2) are generated between the hours of 6:30 a.m. and 6:30 p.m. during that calendar year shall be deposited as follows:

(A) If the licensee that conducts horse racing at that racetrack requests from the Board at least as many racing dates as were conducted in calendar year 2000, 80% shall be deposited into its standardbred purse account; and

(B) Twenty percent shall be deposited into the Illinois Colt Stakes Purse Distribution Fund. Moneys deposited into the Illinois Colt Stakes Purse Distribution Fund pursuant to this subparagraph (B) shall be paid to Illinois conceived and foaled thoroughbred breeders' programs and to thoroughbred purses for races conducted at any county fairgrounds for Illinois conceived and foaled horses at the discretion of the Department of Agriculture, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board. The moneys deposited into the Illinois Colt Stakes Purse Distribution Fund pursuant to this subparagraph (B) shall be deposited within 2 weeks after the day they were generated, shall be in addition to and not in lieu of any other moneys paid to thoroughbred purses under this Act, and shall not be commingled with other moneys deposited into that Fund.

(7.3) If no live standardbred racing is conducted at a racetrack located in Madison County in calendar year 2000 or 2001, an organization licensee who is licensed to conduct horse racing at that racetrack shall, before January 1, 2002, pay all moneys derived from simulcast wagering and inter-track wagering in calendar years 2000 and 2001 and paid into the licensee's standardbred purse account as follows:

(A) Eighty percent to that licensee's thoroughbred purse account to be used for thoroughbred purses; and

(B) Twenty percent to the Illinois Colt Stakes Purse Distribution Fund.

Failure to make the payment to the Illinois Colt Stakes Purse Distribution Fund before January 1, 2002 shall result in the immediate revocation of the licensee's organization license, inter-track wagering license, and inter-track wagering location license.

Moneys paid into the Illinois Colt Stakes Purse Distribution Fund pursuant to this paragraph (7.3) shall be paid to purses for standardbred races for Illinois conceived and foaled horses

conducted at any county fairgrounds. Moneys paid into the Illinois Colt Stakes Purse Distribution Fund pursuant to this paragraph (7.3) shall be used as determined by the Department of Agriculture, with the advice and assistance of the Illinois Standardbred Breeders Fund Advisory Board, shall be in addition to and not in lieu of any other moneys paid to standardbred purses under this Act, and shall not be commingled with any other moneys paid into that Fund.

(7.4) If live standardbred racing is conducted at a racetrack located in Madison County at any time in calendar year 2001 before the payment required under paragraph (7.3) has been made, the organization licensee who is licensed to conduct racing at that racetrack shall pay all moneys derived by that racetrack from simulcast wagering and inter-track wagering during calendar years 2000 and 2001 that (1) are to be used for purses and (2) are generated between the hours of 6:30 p.m. and 6:30 a.m. during 2000 or 2001 to the standardbred purse account at that racetrack to be used for standardbred purses.

(8) Notwithstanding any provision in this Act to the contrary, an organization licensee from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River and its affiliated non-host licensees shall not be entitled to share in any retention generated on racing, inter-track wagering, or simulcast wagering at any other Illinois wagering facility.

(8.1) Notwithstanding any provisions in this Act to the contrary, if 2 organization licensees are conducting standardbred race meetings concurrently between the hours of 6:30 p.m. and 6:30 a.m., after payment of all applicable State and local taxes and interstate commission fees, the remainder of the amount retained from simulcast wagering otherwise attributable to the host track and to host track purses shall be split daily between the 2 organization licensees and the purses at the tracks of the 2 organization licensees, respectively, based on each organization licensee's share of the total live handle for that day, provided that this provision shall not apply to any non-host licensee that derives its license from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River.

(9) (Blank).

(10) (Blank).

(11) (Blank).

(12) The Board shall have authority to compel all host tracks to receive the simulcast of any or all races conducted at the Springfield or DuQuoin State fairgrounds and include all such races as part of their simulcast programs.

(13) Notwithstanding any other provision of this Act, in the event that the total Illinois pari-mutuel handle on Illinois horse races at all wagering facilities in any calendar year is less than 75% of the total Illinois pari-mutuel handle on Illinois horse races at all such wagering facilities for calendar year 1994, then each wagering facility that has an annual total Illinois pari-mutuel handle on Illinois horse races that is less than 75% of the total Illinois pari-mutuel handle on Illinois horse races at such wagering facility for calendar year 1994, shall be permitted to receive, from any amount otherwise payable to the purse account at the race track with which the wagering facility is affiliated in the succeeding calendar year, an amount equal to 2% of the differential in total Illinois pari-mutuel handle on Illinois horse races at the wagering facility between that calendar year in question and 1994 provided, however, that a wagering facility shall not be entitled to any such payment until the Board certifies in writing to the wagering facility the amount to which the wagering facility is entitled and a schedule for payment of the amount to the wagering facility, based on: (i) the racing dates awarded to the race track affiliated with the wagering facility during the succeeding year; (ii) the sums available or anticipated to be available in the purse account of the race track affiliated with the wagering facility for purses during the succeeding year; and (iii) the need to ensure reasonable purse levels during the payment period. The Board's certification shall be provided no later than January 31 of the succeeding year. In the event a wagering facility entitled to a payment under this paragraph (13) is affiliated with a race track that maintains purse accounts for both standardbred and thoroughbred racing, the amount to be paid to the wagering facility shall be divided between each purse account pro rata, based on the amount of Illinois handle on Illinois standardbred and thoroughbred racing respectively at the wagering facility during the previous calendar year. Annually, the General Assembly shall appropriate sufficient funds from the General Revenue Fund to the Department of Agriculture for payment into the thoroughbred and standardbred horse racing purse accounts at Illinois pari-mutuel tracks. The amount paid to each purse account shall be the amount certified by the Illinois Racing Board in January to be transferred from each account to each eligible racing facility in accordance with the provisions of this Section.

(h) The Board may approve and license the conduct of inter-track wagering and simulcast wagering

by inter-track wagering licensees and inter-track wagering location licensees subject to the following terms and conditions:

(1) Any person licensed to conduct a race meeting (i) at a track where 60 or more days of racing were conducted during the immediately preceding calendar year or where over the 5 immediately preceding calendar years an average of 30 or more days of racing were conducted annually may be issued an inter-track wagering license; (ii) at a track located in a county that is bounded by the Mississippi River, which has a population of less than 150,000 according to the 1990 decennial census, and an average of at least 60 days of racing per year between 1985 and 1993 may be issued an inter-track wagering license; or (iii) at a track located in Madison County that conducted at least 100 days of live racing during the immediately preceding calendar year may be issued an inter-track wagering license, unless a lesser schedule of live racing is the result of (A) weather, unsafe track conditions, or other acts of God; (B) an agreement between the organization licensee and the associations representing the largest number of owners, trainers, jockeys, or standardbred drivers who race horses at that organization licensee's racing meeting; or (C) a finding by the Board of extraordinary circumstances and that it was in the best interest of the public and the sport to conduct fewer than 100 days of live racing. Any such person having operating control of the racing facility may also receive up to 6 inter-track wagering location licenses. In no event shall more than 6 inter-track wagering locations be established for each eligible race track, except that an eligible race track located in a county that has a population of more than 230,000 and that is bounded by the Mississippi River may establish up to 7 inter-track wagering locations. An application for said license shall be filed with the Board prior to such dates as may be fixed by the Board. With an application for an inter-track wagering location license there shall be delivered to the Board a certified check or bank draft payable to the order of the Board for an amount equal to \$500. The application shall be on forms prescribed and furnished by the Board. The application shall comply with all other rules, regulations and conditions imposed by the Board in connection therewith.

(2) The Board shall examine the applications with respect to their conformity with this Act and the rules and regulations imposed by the Board. If found to be in compliance with the Act and rules and regulations of the Board, the Board may then issue a license to conduct inter-track wagering and simulcast wagering to such applicant. All such applications shall be acted upon by the Board at a meeting to be held on such date as may be fixed by the Board.

(3) In granting licenses to conduct inter-track wagering and simulcast wagering, the Board shall give due consideration to the best interests of the public, of horse racing, and of maximizing revenue to the State.

(4) Prior to the issuance of a license to conduct inter-track wagering and simulcast wagering, the applicant shall file with the Board a bond payable to the State of Illinois in the sum of \$50,000, executed by the applicant and a surety company or companies authorized to do business in this State, and conditioned upon (i) the payment by the licensee of all taxes due under Section 27 or 27.1 and any other monies due and payable under this Act, and (ii) distribution by the licensee, upon presentation of the winning ticket or tickets, of all sums payable to the patrons of pari-mutuel pools.

(5) Each license to conduct inter-track wagering and simulcast wagering shall specify the person to whom it is issued, the dates on which such wagering is permitted, and the track or location where the wagering is to be conducted.

(6) All wagering under such license is subject to this Act and to the rules and regulations from time to time prescribed by the Board, and every such license issued by the Board shall contain a recital to that effect.

(7) An inter-track wagering licensee or inter-track wagering location licensee may accept wagers at the track or location where it is licensed, or as otherwise provided under this Act.

(8) Inter-track wagering or simulcast wagering shall not be conducted at any track less than 5 miles from a track at which a racing meeting is in progress.

(8.1) Inter-track wagering location licensees who derive their licenses from a particular organization licensee shall conduct inter-track wagering and simulcast wagering only at locations which are either within 90 miles of that race track where the particular organization licensee is licensed to conduct racing, or within 135 miles of that race track where the particular organization licensee is licensed to conduct racing in the case of race tracks in counties of less than 400,000 that were operating on or before June 1, 1986. However, inter-track wagering and simulcast wagering shall not be conducted by those licensees at any location within 5 miles of any race track at which a horse race meeting has been licensed in the current year, unless the person having operating control of such race track has given its written consent to such inter-track wagering location licensees, which consent must be filed with the Board at or prior to the time application is made.

(8.2) Inter-track wagering or simulcast wagering shall not be conducted by an inter-track wagering location licensee at any location within 500 feet of an existing church or existing school, nor within 500 feet of the residences of more than 50 registered voters without receiving written permission from a majority of the registered voters at such residences. Such written permission statements shall be filed with the Board. The distance of 500 feet shall be measured to the nearest part of any building used for worship services, education programs, residential purposes, or conducting inter-track wagering by an inter-track wagering location licensee, and not to property boundaries. However, inter-track wagering or simulcast wagering may be conducted at a site within 500 feet of a church, school or residences of 50 or more registered voters if such church, school or residences have been erected or established, or such voters have been registered, after the Board issues the original inter-track wagering location license at the site in question. Inter-track wagering location licensees may conduct inter-track wagering and simulcast wagering only in areas that are zoned for commercial or manufacturing purposes or in areas for which a special use has been approved by the local zoning authority. However, no license to conduct inter-track wagering and simulcast wagering shall be granted by the Board with respect to any inter-track wagering location within the jurisdiction of any local zoning authority which has, by ordinance or by resolution, prohibited the establishment of an inter-track wagering location within its jurisdiction. However, inter-track wagering and simulcast wagering may be conducted at a site if such ordinance or resolution is enacted after the Board licenses the original inter-track wagering location licensee for the site in question.

(9) (Blank).

(10) An inter-track wagering licensee or an inter-track wagering location licensee may retain, subject to the payment of the privilege taxes and the purses, an amount not to exceed 17% of all money wagered. Each program of racing conducted by each inter-track wagering licensee or inter-track wagering location licensee shall be considered a separate racing day for the purpose of determining the daily handle and computing the privilege tax or pari-mutuel tax on such daily handle as provided in Section 27.

(10.1) Except as provided in subsection (g) of Section 27 of this Act, inter-track wagering location licensees shall pay 1% of the pari-mutuel handle at each location to the municipality in which such location is situated and 1% of the pari-mutuel handle at each location to the county in which such location is situated. In the event that an inter-track wagering location licensee is situated in an unincorporated area of a county, such licensee shall pay 2% of the pari-mutuel handle from such location to such county.

(10.2) Notwithstanding any other provision of this Act, with respect to intertrack wagering at a race track located in a county that has a population of more than 230,000 and that is bounded by the Mississippi River ("the first race track"), or at a facility operated by an inter-track wagering licensee or inter-track wagering location licensee that derives its license from the organization licensee that operates the first race track, on races conducted at the first race track or on races conducted at another Illinois race track and simultaneously televised to the first race track or to a facility operated by an inter-track wagering licensee or inter-track wagering location licensee that derives its license from the organization licensee that operates the first race track, those moneys shall be allocated as follows:

(A) That portion of all moneys wagered on standardbred racing that is required under this Act to be paid to purses shall be paid to purses for standardbred races.

(B) That portion of all moneys wagered on thoroughbred racing that is required under this Act to be paid to purses shall be paid to purses for thoroughbred races.

(11) (A) After payment of the privilege or pari-mutuel tax, any other applicable taxes, and the costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering, the remainder of the monies retained under either Section 26 or Section 26.2 of this Act by the inter-track wagering licensee on inter-track wagering shall be allocated with 50% to be split between the 2 participating licensees and 50% to purses, except that an intertrack wagering licensee that derives its license from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River shall not divide any remaining retention with the Illinois organization licensee that provides the race or races, and an intertrack wagering licensee that accepts wagers on races conducted by an organization licensee that conducts a race meet in a county with a population in excess of 230,000 and that borders the Mississippi River shall not divide any remaining retention with that organization licensee.

(B) From the sums permitted to be retained pursuant to this Act each inter-track wagering location licensee shall pay (i) the privilege or pari-mutuel tax to the State; (ii) 4.75% of the pari-mutuel handle on intertrack wagering at such location on races as purses, except that an intertrack

wagering location licensee that derives its license from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River shall retain all purse moneys for its own purse account consistent with distribution set forth in this subsection (h), and intertrack wagering location licensees that accept wagers on races conducted by an organization licensee located in a county with a population in excess of 230,000 and that borders the Mississippi River shall distribute all purse moneys to purses at the operating host track; (iii) until January 1, 2000, except as provided in subsection (g) of Section 27 of this Act, 1% of the pari-mutuel handle wagered on inter-track wagering and simulcast wagering at each inter-track wagering location licensee facility to the Horse Racing Tax Allocation Fund, provided that, to the extent the total amount collected and distributed to the Horse Racing Tax Allocation Fund under this subsection (h) during any calendar year exceeds the amount collected and distributed to the Horse Racing Tax Allocation Fund during calendar year 1994, that excess amount shall be redistributed (I) to all inter-track wagering location licensees, based on each licensee's pro-rata share of the total handle from inter-track wagering and simulcast wagering for all inter-track wagering location licensees during the calendar year in which this provision is applicable; then (II) the amounts redistributed to each inter-track wagering location licensee as described in subpart (I) shall be further redistributed as provided in subparagraph (B) of paragraph (5) of subsection (g) of this Section 26 provided first, that the shares of those amounts, which are to be redistributed to the host track or to purses at the host track under subparagraph (B) of paragraph (5) of subsection (g) of this Section 26 shall be redistributed based on each host track's pro rata share of the total inter-track wagering and simulcast wagering handle at all host tracks during the calendar year in question, and second, that any amounts redistributed as described in part (I) to an inter-track wagering location licensee that accepts wagers on races conducted by an organization licensee that conducts a race meet in a county with a population in excess of 230,000 and that borders the Mississippi River shall be further redistributed as provided in subparagraphs (D) and (E) of paragraph (7) of subsection (g) of this Section 26, with the portion of that further redistribution allocated to purses at that organization licensee to be divided between standardbred purses and thoroughbred purses based on the amounts otherwise allocated to purses at that organization licensee during the calendar year in question; and (iv) 8% of the pari-mutuel handle on inter-track wagering wagered at such location to satisfy all costs and expenses of conducting its wagering. The remainder of the monies retained by the inter-track wagering location licensee shall be allocated 40% to the location licensee and 60% to the organization licensee which provides the Illinois races to the location, except that an intertrack wagering location licensee that derives its license from a track located in a county with a population in excess of 230,000 and that borders the Mississippi River shall not divide any remaining retention with the organization licensee that provides the race or races and an intertrack wagering location licensee that accepts wagers on races conducted by an organization licensee that conducts a race meet in a county with a population in excess of 230,000 and that borders the Mississippi River shall not divide any remaining retention with the organization licensee. Notwithstanding the provisions of clauses (ii) and (iv) of this paragraph, in the case of the additional inter-track wagering location licenses authorized under paragraph (1) of this subsection (h) by this amendatory Act of 1991, those licensees shall pay the following amounts as purses: during the first 12 months the licensee is in operation, 5.25% of the pari-mutuel handle wagered at the location on races; during the second 12 months, 5.25%; during the third 12 months, 5.75%; during the fourth 12 months, 6.25%; and during the fifth 12 months and thereafter, 6.75%. The following amounts shall be retained by the licensee to satisfy all costs and expenses of conducting its wagering: during the first 12 months the licensee is in operation, 8.25% of the pari-mutuel handle wagered at the location; during the second 12 months, 8.25%; during the third 12 months, 7.75%; during the fourth 12 months, 7.25%; and during the fifth 12 months and thereafter, 6.75%. For additional intertrack wagering location licensees authorized under this amendatory Act of 1995, purses for the first 12 months the licensee is in operation shall be 5.75% of the pari-mutuel wagered at the location, purses for the second 12 months the licensee is in operation shall be 6.25%, and purses thereafter shall be 6.75%. For additional intertrack location licensees authorized under this amendatory Act of 1995, the licensee shall be allowed to retain to satisfy all costs and expenses: 7.75% of the pari-mutuel handle wagered at the location during its first 12 months of operation, 7.25% during its second 12 months of operation, and 6.75% thereafter.

(C) There is hereby created the Horse Racing Tax Allocation Fund which shall remain in existence until December 31, 1999. Moneys remaining in the Fund after December 31, 1999 shall be paid into the General Revenue Fund. Until January 1, 2000, all monies paid into the Horse Racing Tax Allocation Fund pursuant to this paragraph (11) by inter-track wagering location licensees located in park districts of 500,000 population or less, or in a municipality that is not included within any park district but is included within a conservation district and is the county seat of a county that (i) is

contiguous to the state of Indiana and (ii) has a 1990 population of 88,257 according to the United States Bureau of the Census, and operating on May 1, 1994 shall be allocated by appropriation as follows:

Two-sevenths to the Department of Agriculture. Fifty percent of this two-sevenths shall be used to promote the Illinois horse racing and breeding industry, and shall be distributed by the Department of Agriculture upon the advice of a 9-member committee appointed by the Governor consisting of the following members: the Director of Agriculture, who shall serve as chairman; 2 representatives of organization licensees conducting thoroughbred race meetings in this State, recommended by those licensees; 2 representatives of organization licensees conducting standardbred race meetings in this State, recommended by those licensees; a representative of the Illinois Thoroughbred Breeders and Owners Foundation, recommended by that Foundation; a representative of the Illinois Standardbred Owners and Breeders Association, recommended by that Association; a representative of the Horsemen's Benevolent and Protective Association or any successor organization thereto established in Illinois comprised of the largest number of owners and trainers, recommended by that Association or that successor organization; and a representative of the Illinois Harness Horsemen's Association, recommended by that Association. Committee members shall serve for terms of 2 years, commencing January 1 of each even-numbered year. If a representative of any of the above-named entities has not been recommended by January 1 of any even-numbered year, the Governor shall appoint a committee member to fill that position. Committee members shall receive no compensation for their services as members but shall be reimbursed for all actual and necessary expenses and disbursements incurred in the performance of their official duties. The remaining 50% of this two-sevenths shall be distributed to county fairs for premiums and rehabilitation as set forth in the Agricultural Fair Act;

Four-sevenths to park districts or municipalities that do not have a park district of 500,000 population or less for museum purposes (if an inter-track wagering location licensee is located in such a park district) or to conservation districts for museum purposes (if an inter-track wagering location licensee is located in a municipality that is not included within any park district but is included within a conservation district and is the county seat of a county that (i) is contiguous to the state of Indiana and (ii) has a 1990 population of 88,257 according to the United States Bureau of the Census, except that if the conservation district does not maintain a museum, the monies shall be allocated equally between the county and the municipality in which the inter-track wagering location licensee is located for general purposes) or to a municipal recreation board for park purposes (if an inter-track wagering location licensee is located in a municipality that is not included within any park district and park maintenance is the function of the municipal recreation board and the municipality has a 1990 population of 9,302 according to the United States Bureau of the Census); provided that the monies are distributed to each park district or conservation district or municipality that does not have a park district in an amount equal to four-sevenths of the amount collected by each inter-track wagering location licensee within the park district or conservation district or municipality for the Fund. Monies that were paid into the Horse Racing Tax Allocation Fund before the effective date of this amendatory Act of 1991 by an inter-track wagering location licensee located in a municipality that is not included within any park district but is included within a conservation district as provided in this paragraph shall, as soon as practicable after the effective date of this amendatory Act of 1991, be allocated and paid to that conservation district as provided in this paragraph. Any park district or municipality not maintaining a museum may deposit the monies in the corporate fund of the park district or municipality where the inter-track wagering location is located, to be used for general purposes; and

One-seventh to the Agricultural Premium Fund to be used for distribution to agricultural home economics extension councils in accordance with "An Act in relation to additional support and finances for the Agricultural and Home Economic Extension Councils in the several counties of this State and making an appropriation therefor", approved July 24, 1967. Until January 1, 2000, all other monies paid into the Horse Racing Tax Allocation Fund pursuant to this paragraph (11) shall be allocated by appropriation as follows:

Two-sevenths to the Department of Agriculture. Fifty percent of this two-sevenths shall be used to promote the Illinois horse racing and breeding industry, and shall be distributed by the Department of Agriculture upon the advice of a 9-member committee appointed by the Governor consisting of the following members: the Director of Agriculture, who shall serve as chairman; 2 representatives of organization licensees conducting thoroughbred race meetings in this State, recommended by those licensees; 2 representatives of organization licensees conducting standardbred race meetings in this State, recommended by those licensees; a representative of the

Illinois Thoroughbred Breeders and Owners Foundation, recommended by that Foundation; a representative of the Illinois Standardbred Owners and Breeders Association, recommended by that Association; a representative of the Horsemen's Benevolent and Protective Association or any successor organization thereto established in Illinois comprised of the largest number of owners and trainers, recommended by that Association or that successor organization; and a representative of the Illinois Harness Horsemen's Association, recommended by that Association. Committee members shall serve for terms of 2 years, commencing January 1 of each even-numbered year. If a representative of any of the above-named entities has not been recommended by January 1 of any even-numbered year, the Governor shall appoint a committee member to fill that position. Committee members shall receive no compensation for their services as members but shall be reimbursed for all actual and necessary expenses and disbursements incurred in the performance of their official duties. The remaining 50% of this two-sevenths shall be distributed to county fairs for premiums and rehabilitation as set forth in the Agricultural Fair Act;

Four-sevenths to museums and aquariums located in park districts of over 500,000 population; provided that the monies are distributed in accordance with the previous year's distribution of the maintenance tax for such museums and aquariums as provided in Section 2 of the Park District Aquarium and Museum Act; and

One-seventh to the Agricultural Premium Fund to be used for distribution to agricultural home economics extension councils in accordance with "An Act in relation to additional support and finances for the Agricultural and Home Economic Extension Councils in the several counties of this State and making an appropriation therefor", approved July 24, 1967. This subparagraph (C) shall be inoperative and of no force and effect on and after January 1, 2000.

(D) Except as provided in paragraph (11) of this subsection (h), with respect to purse allocation from intertrack wagering, the monies so retained shall be divided as follows:

(i) If the inter-track wagering licensee, except an intertrack wagering licensee that derives its license from an organization licensee located in a county with a population in excess of 230,000 and bounded by the Mississippi River, is not conducting its own race meeting during the same dates, then the entire purse allocation shall be to purses at the track where the races wagered on are being conducted.

(ii) If the inter-track wagering licensee, except an intertrack wagering licensee that derives its license from an organization licensee located in a county with a population in excess of 230,000 and bounded by the Mississippi River, is also conducting its own race meeting during the same dates, then the purse allocation shall be as follows: 50% to purses at the track where the races wagered on are being conducted; 50% to purses at the track where the inter-track wagering licensee is accepting such wagers.

(iii) If the inter-track wagering is being conducted by an inter-track wagering location licensee, except an intertrack wagering location licensee that derives its license from an organization licensee located in a county with a population in excess of 230,000 and bounded by the Mississippi River, the entire purse allocation for Illinois races shall be to purses at the track where the race meeting being wagered on is being held.

(12) The Board shall have all powers necessary and proper to fully supervise and control the conduct of inter-track wagering and simulcast wagering by inter-track wagering licensees and inter-track wagering location licensees, including, but not limited to the following:

(A) The Board is vested with power to promulgate reasonable rules and regulations for the purpose of administering the conduct of this wagering and to prescribe reasonable rules, regulations and conditions under which such wagering shall be held and conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of said wagering and to impose penalties for violations thereof.

(B) The Board, and any person or persons to whom it delegates this power, is vested with the power to enter the facilities of any licensee to determine whether there has been compliance with the provisions of this Act and the rules and regulations relating to the conduct of such wagering.

(C) The Board, and any person or persons to whom it delegates this power, may eject or exclude from any licensee's facilities, any person whose conduct or reputation is such that his presence on such premises may, in the opinion of the Board, call into the question the honesty and integrity of, or interfere with the orderly conduct of such wagering; provided, however, that no person shall be excluded or ejected from such premises solely on the grounds of race, color, creed, national origin, ancestry, or sex.

(D) (Blank).

(E) The Board is vested with the power to appoint delegates to execute any of the powers granted to it under this Section for the purpose of administering this wagering and any rules and regulations promulgated in accordance with this Act.

(F) The Board shall name and appoint a State director of this wagering who shall be a representative of the Board and whose duty it shall be to supervise the conduct of inter-track wagering as may be provided for by the rules and regulations of the Board; such rules and regulation shall specify the method of appointment and the Director's powers, authority and duties.

(G) The Board is vested with the power to impose civil penalties of up to \$5,000 against individuals and up to \$10,000 against licensees for each violation of any provision of this Act relating to the conduct of this wagering, any rules adopted by the Board, any order of the Board or any other action which in the Board's discretion, is a detriment or impediment to such wagering.

(13) The Department of Agriculture may enter into agreements with licensees authorizing such licensees to conduct inter-track wagering on races to be held at the licensed race meetings conducted by the Department of Agriculture. Such agreement shall specify the races of the Department of Agriculture's licensed race meeting upon which the licensees will conduct wagering. In the event that a licensee conducts inter-track pari-mutuel wagering on races from the Illinois State Fair or DuQuoin State Fair which are in addition to the licensee's previously approved racing program, those races shall be considered a separate racing day for the purpose of determining the daily handle and computing the privilege or pari-mutuel tax on that daily handle as provided in Sections 27 and 27.1. Such agreements shall be approved by the Board before such wagering may be conducted. In determining whether to grant approval, the Board shall give due consideration to the best interests of the public and of horse racing. The provisions of paragraphs (1), (8), (8.1), and (8.2) of subsection (h) of this Section which are not specified in this paragraph (13) shall not apply to licensed race meetings conducted by the Department of Agriculture at the Illinois State Fair in Sangamon County or the DuQuoin State Fair in Perry County, or to any wagering conducted on those race meetings.

(i) Notwithstanding the other provisions of this Act, the conduct of wagering at wagering facilities is authorized on all days, except as limited by subsection (b) of Section 19 of this Act.

(Source: P.A. 91-40, eff. 6-25-99; 92-211, eff. 8-2-01.)

(230 ILCS 5/27) (from Ch. 8, par. 37-27)

Sec. 27. (a) In addition to the organization license fee provided by this Act, until January 1, 2000, a graduated privilege tax is hereby imposed for conducting the pari-mutuel system of wagering permitted under this Act. Until January 1, 2000, except as provided in subsection (g) of Section 27 of this Act, all of the breakage of each racing day held by any licensee in the State shall be paid to the State. Until January 1, 2000, such daily graduated privilege tax shall be paid by the licensee from the amount permitted to be retained under this Act. Until January 1, 2000, each day's graduated privilege tax, breakage, and Horse Racing Tax Allocation funds shall be remitted to the Department of Revenue within 48 hours after the close of the racing day upon which it is assessed or within such other time as the Board prescribes. The privilege tax hereby imposed, until January 1, 2000, shall be a flat tax at the rate of 2% of the daily pari-mutuel handle except as provided in Section 27.1.

In addition, every organization licensee, except as provided in Section 27.1 of this Act, which conducts multiple wagering shall pay, until January 1, 2000, as a privilege tax on multiple wagers an amount equal to 1.25% of all moneys wagered each day on such multiple wagers, plus an additional amount equal to 3.5% of the amount wagered each day on any other multiple wager which involves a single betting interest on 3 or more horses. The licensee shall remit the amount of such taxes to the Department of Revenue within 48 hours after the close of the racing day on which it is assessed or within such other time as the Board prescribes.

This subsection (a) shall be inoperative and of no force and effect on and after January 1, 2000.

(a-5) Beginning on January 1, 2000, a flat pari-mutuel tax at the rate of 1.5% of the daily pari-mutuel handle is imposed at all pari-mutuel wagering facilities and on advance deposit wagering from a location other than a wagering facility, except as otherwise provided for in this subsection (a-5). In addition to the pari-mutuel tax imposed on advance deposit wagering pursuant to this subsection (a-5), an additional pari-mutuel tax at the rate of 0.25% shall be imposed on advance deposit wagering, the amount of which shall not exceed \$250,000 in each calendar year. The additional 0.25% pari-mutuel tax imposed on advance deposit wagering by this amendatory Act of the 96th General Assembly shall be deposited into the Quarter Horse Purse Fund, which shall be created as a non-appropriated trust fund administered by the Board for grants to thoroughbred organization licensees for payment of purses for quarter horse races conducted by the organization licensee. Thoroughbred organization licensees may petition the Board to conduct quarter horse racing and receive purse grants from the Quarter Horse Purse Fund. The Board shall have complete discretion in distributing the Quarter Horse Purse Fund to the petitioning

organization licensees. Beginning on the effective date of this amendatory Act of the 94th General Assembly and until moneys deposited pursuant to Section 54 are distributed and received, a pari-mutuel tax at the rate of 0.25% of the daily pari-mutuel handle is imposed at a pari-mutuel facility whose license is derived from a track located in a county that borders the Mississippi River and conducted live racing in the previous year. After moneys deposited pursuant to Section 54 are distributed and received, a pari-mutuel tax at the rate of 1.5% of the daily pari-mutuel handle is imposed at a pari-mutuel facility whose license is derived from a track located in a county that borders the Mississippi River and conducted live racing in the previous year. The pari-mutuel tax imposed by this subsection (a-5) shall be remitted to the Department of Revenue within 48 hours after the close of the racing day upon which it is assessed or within such other time as the Board prescribes.

(b) On or before December 31, 1999, in the event that any organization licensee conducts 2 separate programs of races on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the privilege tax on such daily handle as provided in subsection (a) of this Section.

(c) Licensees shall at all times keep accurate books and records of all monies wagered on each day of a race meeting and of the taxes paid to the Department of Revenue under the provisions of this Section. The Board or its duly authorized representative or representatives shall at all reasonable times have access to such records for the purpose of examining and checking the same and ascertaining whether the proper amount of taxes is being paid as provided. The Board shall require verified reports and a statement of the total of all monies wagered daily at each wagering facility upon which the taxes are assessed and may prescribe forms upon which such reports and statement shall be made.

(d) Any licensee failing or refusing to pay the amount of any tax due under this Section shall be guilty of a business offense and upon conviction shall be fined not more than \$5,000 in addition to the amount found due as tax under this Section. Each day's violation shall constitute a separate offense. All fines paid into Court by a licensee hereunder shall be transmitted and paid over by the Clerk of the Court to the Board.

(e) No other license fee, privilege tax, excise tax, or racing fee, except as provided in this Act, shall be assessed or collected from any such licensee by the State.

(f) No other license fee, privilege tax, excise tax or racing fee shall be assessed or collected from any such licensee by units of local government except as provided in paragraph 10.1 of subsection (h) and subsection (f) of Section 26 of this Act. However, any municipality that has a Board licensed horse race meeting at a race track wholly within its corporate boundaries or a township that has a Board licensed horse race meeting at a race track wholly within the unincorporated area of the township may charge a local amusement tax not to exceed 10¢ per admission to such horse race meeting by the enactment of an ordinance. However, any municipality or county that has a Board licensed inter-track wagering location facility wholly within its corporate boundaries may each impose an admission fee not to exceed \$1.00 per admission to such inter-track wagering location facility, so that a total of not more than \$2.00 per admission may be imposed. Except as provided in subparagraph (g) of Section 27 of this Act, the inter-track wagering location licensee shall collect any and all such fees and within 48 hours remit the fees to the Board, which shall, pursuant to rule, cause the fees to be distributed to the county or municipality.

(g) Notwithstanding any provision in this Act to the contrary, if in any calendar year the total taxes and fees required to be collected from licensees and distributed under this Act to all State and local governmental authorities exceeds the amount of such taxes and fees distributed to each State and local governmental authority to which each State and local governmental authority was entitled under this Act for calendar year 1994, then the first \$11 million of that excess amount shall be allocated at the earliest possible date for distribution as purse money for the succeeding calendar year. Upon reaching the 1994 level, and until the excess amount of taxes and fees exceeds \$11 million, the Board shall direct all licensees to cease paying the subject taxes and fees and the Board shall direct all licensees to allocate any such excess amount for purses as follows:

(i) the excess amount shall be initially divided between thoroughbred and standardbred purses based on the thoroughbred's and standardbred's respective percentages of total Illinois live wagering in calendar year 1994;

(ii) each thoroughbred and standardbred organization licensee issued an organization licensee in that succeeding allocation year shall be allocated an amount equal to the product of its percentage of total Illinois live thoroughbred or standardbred wagering in calendar year 1994 (the total to be determined based on the sum of 1994 on-track wagering for all organization licensees issued organization licenses in both the allocation year and the preceding year) multiplied by the total amount allocated for standardbred or thoroughbred purses, provided that the first \$1,500,000 of the

amount allocated to standardbred purses under item (i) shall be allocated to the Department of Agriculture to be expended with the assistance and advice of the Illinois Standardbred Breeders Funds Advisory Board for the purposes listed in subsection (g) of Section 31 of this Act, before the amount allocated to standardbred purses under item (i) is allocated to standardbred organization licensees in the succeeding allocation year.

To the extent the excess amount of taxes and fees to be collected and distributed to State and local governmental authorities exceeds \$11 million, that excess amount shall be collected and distributed to State and local authorities as provided for under this Act.

(Source: P.A. 94-805, eff. 5-26-06.)

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

Under the rules, the foregoing **Senate Bill No. 1298**, with House Amendment No. 1, was referred to the Secretary's Desk.

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

Mr. President -- I am directed to inform the Senate that the House of Representatives has 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. 33

BE IT RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the Community Service Education Task Force is established to address what level of funding the Community Service Education Program under the Community Service Education Act should have; and be it further

RESOLVED, That the Task Force shall consist of 2 members of the House of Representatives appointed by the Speaker of the House, 2 members of the House of Representatives appointed by the Minority Leader of the House, 2 members of the Senate appointed by the President of the Senate, 2 members of the Senate appointed by the Minority Leader of the Senate, and 3 members who are not members of the General Assembly and who represent a community service education or service learning organization, to be appointed by the Governor; and be it further

RESOLVED, That the Task Force shall report its findings and recommendations to the General Assembly on or before July 1, 2010, and upon filing this report the Task Force is dissolved; and be it further

RESOLVED, That a suitable copy of this resolution be delivered to the Governor.

Adopted by the House, April 22, 2009.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 33 was referred to the Committee on Assignments.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 450
Motion to Concur in House Amendment 1 to Senate Bill 1298

[May 28, 2009]

Motion to Concur in House Amendments 1 and 2 to Senate Bill 2172

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee meetings:

Public Health at 9:30 o'clock a.m. in Room 212
 State Government & Veterans Affairs at 10:30 o'clock a.m. in Room 409
 Executive to be announced
 Revenue to be announced

At the hour of 9:34 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 12:25 o'clock a.m., the Senate resumed consideration of business.
 Senator Lightford, presiding.

REPORTS FROM STANDING COMMITTEES

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Resolutions numbered 179, 236, 237, 252, 254, 255, 261, 273, 291, 296 and 297**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **Senate Resolutions numbered 179, 236, 237, 252, 254, 255, 261, 273, 291, 296 and 297** were placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Joint Resolutions numbered 64 and 67**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **Senate Joint Resolutions numbered 64 and 67** were placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Joint Resolution No. 30**, reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.

Under the rules, **Senate Joint Resolution No. 30** was placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **House Joint Resolutions numbered 17, 37, 39 and 40**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **House Joint Resolutions numbered 17, 37, 39 and 40** were placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 1682

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Delgado, Chairperson of the Committee on Public Health, to which was referred the following Senate floor amendment, reported that the Committee recommends that it be adopted:

[May 28, 2009]

Senate Amendment No. 3 to House Bill 810

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Delgado, Chairperson of the Committee on Public Health, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2256

Under the rules, the foregoing motion is eligible for consideration by the Senate.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 28, 2009 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committees of the Senate:

Criminal Law: **Senate Floor Amendment No. 1 to House Bill 935; Senate Floor Amendment No. 2 to House Bill 935.**

Executive: **Senate Floor Amendment No. 1 to House Bill 7; Senate Floor Amendment No. 2 to House Bill 7; Senate Floor Amendment No. 2 to House Bill 1195; Senate Floor Amendment No. 2 to House Bill 3718; Senate Committee Amendment No. 4 to House Bill 3923.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 28, 2009 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Criminal Law **Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1289**

Education: **Motion to Concur in House Amendment 1 to Senate Bill 235**

Revenue: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 450**

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committees to meet:

At 1:40 o'clock p.m., Executive in Room 212 and Revenue in Room 400

At 4:00 o'clock p.m., Appropriations II in Room 212 and Insurance in Room 400

At 4:15 o'clock p.m., Human Services in Room 212, Judiciary in Room 400 and Higher Education in Room 409

At 4:45 o'clock p.m., Telecommunications & Technology in Room 212 and Gaming in Room 400

At 5:00 o'clock p.m., Appropriations I in Room 212, Transportation in Room 400 and Education in Room 409

At 5:20 o'clock p.m., Criminal Law in Room 212, Environment in Room 400 and Local Government in Room 409

At 5:40 o'clock p.m., Energy in Room 212 and Consumer Protection in Room 409

At the hour of 12:42 o'clock p.m., Senator Muñoz, presiding.

At the hour 12:47 o'clock p.m., Senator Lightford, presiding.

[May 28, 2009]

POSTING NOTICES WAIVED

Senator Garrett moved to waive the six-day posting requirement on **Senate Joint Resolution No. 63** so that the bill may be heard in the Committee on Environment that is scheduled to meet this evening. The motion prevailed.

Senator Bomke moved to waive the six-day posting requirement on **Senate Joint Resolution No. 62** so that the bill may be heard in the Committee on Transportation that is scheduled to meet this evening. The motion prevailed.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Luechtefeld moved that **Senate Resolution No. 252**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Luechtefeld moved that Senate Resolution No. 252 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.

And the resolution was adopted.

Senator Radogno moved that **Senate Resolution No. 255**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Radogno moved that Senate Resolution No. 255 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval

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

The motion prevailed.
And the resolution was adopted.

Senator Hunter moved that **Senate Resolution No. 261**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.
Senator Hunter moved that Senate Resolution No. 261 be adopted.
And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.
And the resolution was adopted.

Senator Hunter moved that **Senate Resolution No. 291**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.
Senator Hunter moved that Senate Resolution No. 291 be adopted.
And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval

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

The motion prevailed.
And the resolution was adopted.

Senator Brady moved that **Senate Resolution No. 296**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.
Senator Brady moved that Senate Resolution No. 296 be adopted.
And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.
And the resolution was adopted.

Senator Harmon moved that **Senate Resolution No. 297**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.
Senator Harmon moved that Senate Resolution No. 297 be adopted.
And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg

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

The motion prevailed.
And the resolution was adopted.

Senator Steans moved that **Senate Joint Resolution No. 30**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE JOINT RESOLUTION 30

AMENDMENT NO. 1. Amend Senate Joint Resolution 30 by replacing everything after the title with the following:

"WHEREAS, The United States Supreme Court in *Olmstead v. L.C. Ex Rel. Zimring*, 119 S. Ct. 2176 (1999), held that the unjustifiable institutionalization of a person with a disability who could live in the community with appropriate supports and services, and wishes to do so, is unlawful discrimination in violation of the Americans with Disabilities Act (ADA); and

WHEREAS, Many individuals with developmental disabilities in Illinois who desire home or community-based residential services are unable to obtain them due to the lack of funding for such options; and

WHEREAS, As a result of insufficient home and community-based service options for individuals with developmental disabilities in Illinois, many individuals and their families must choose between living with their parents or other family members without the supports and services they need, or living in a State-operated developmental center or another institution, even if they could live successfully in a less restrictive setting with appropriate supports and services; and

WHEREAS, There are now over 16,000 individuals with developmental disabilities in Illinois with documented crisis, emerging crisis, or future service needs who are on the Department of Human Services' Priority of Urgency of Need of Services (PUNS) waiting list database for services and supports, and the need is probably greater because this number only represents those individuals who have actually signed up for the PUNS waiting list database; and

WHEREAS, Almost 10 years after the *Olmstead* decision, a report titled "The State of the States in Disabilities 2008" by the Department of Psychiatry and Coleman Institute for Cognitive Disabilities of the University of Colorado ranks the State of Illinois 51st in the nation in terms of making small community living arrangements (6 residents or fewer) available to individuals with developmental disabilities; and

WHEREAS, The State of Illinois ranks near the very bottom both nationally and among the other Midwest states in per capita spending for home and community-based supports and services for individuals with developmental disabilities; and

WHEREAS, Other studies, including but not limited to, "State Funding of Community Agencies for

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Services to Illinois Residents with Mental Illness and/or Developmental Disabilities: Final Report to the Illinois General Assembly" and "The Report of the Community Integrated Living Arrangement Nursing Services Work Group" address the issues with the Illinois system; and

WHEREAS, "The Blueprint for System Redesign in Illinois" reviewed the findings of these studies as well as the results of a gaps analysis and created a framework for restructuring the current service system for people with developmental disabilities and their families; and

WHEREAS, These studies and numerous legislative measures and lawsuits over the last decade have attempted to address the shortcomings of Illinois' fragmented and inadequate system of services and supports to individuals with developmental disabilities; and

WHEREAS, The level of need and corresponding cost for providing supports and services for individuals with developmental disabilities in Illinois will continue to outpace significantly the State's ability to fund services appropriately and effectively unless major systemic fiscal and policy changes are made to the service delivery system; and

WHEREAS, Until the State breaks the cycle of underfunding and lack of significant growth of home and community-based services and supports for people with developmental disabilities and their families which perpetuates short term measures to address crises in the system and which, in the long term, has maintained and fostered the competition among many for scarce public resources; the community-based system will continue to be fragmented and inadequately funded; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the Department of Human Services, Division of Developmental Disabilities, shall develop a 7-year Plan with yearly benchmarks to enhance and expand access to quality community services and supports as described in the recommendations of the "Blueprint for System Redesign" (January 2008) and other reports that have been done, by December 1, 2009; and be it further

RESOLVED, That any increase in the resources available to the Department shall be appropriated to services and supports consistent with the action steps in the Plan considering, but not limited to, funding incentives, identifying new revenue sources, maximizing current revenue sources, creating opportunities for capacity building and new rate methodologies that enhance quality service and quality assurance, crisis intervention and workforce development; and be it further

RESOLVED, That the Secretary of Human Services shall provide an annual report on the implementation of the Plan to the Governor and to each member of the General Assembly by not later than July 1st of each year and interim progress reports to the Governor and to the members of the General Assembly not later than December 31st of each year until the plan is fully implemented; and be it further

RESOLVED, That appropriate committees of the House of Representatives and the Senate shall convene at least one hearing not later than July 1st of each year on the subject of the Plan; and be it further

RESOLVED, That copies of this Resolution be sent to the Governor, the Secretary of the Department of Human Services, the Director of the Governor's Office of Management and Budget, and all members of the General Assembly."

Senate Committee Amendment Nos. 2 and 3 were held in the Committee on State Government.
Senator Steans moved that Senate Joint Resolution No. 30, as amended, be adopted.
And on that motion a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Allthoff

Forby

Lauzen

Righter

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

The motion prevailed.

And the resolution, as amended, was adopted.

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

ANNOUNCEMENT

Senator Maloney announced that the Committee on Higher Education previously announced to begin at 4:15 o'clock p.m. has been cancelled.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Luechtefeld moved that **Senate Joint Resolution No. 64**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Luechtefeld moved that Senate Joint Resolution No. 64 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.

And the resolution was adopted.

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

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POSTING NOTICE WAIVED

Senator J. Jones moved to waive the six-day posting requirement on **House Joint Resolution No. 2** so that the bill may be heard in the Committee on Transportation that is scheduled to meet this evening.

The motion prevailed.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Hunter moved that **Senate Joint Resolution No. 67**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hunter moved that Senate Joint Resolution No. 67 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.

And the resolution was adopted.

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

Senator Brady moved that **House Joint Resolution No. 17**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Brady moved that House Joint Resolution No. 17 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bomke	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein

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Clayborne	Holmes	McCarter	Stears
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	
Forby	Lauzen	Righter	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Demuzio moved that **House Joint Resolution No. 37**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Demuzio moved that House Joint Resolution No. 37 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator J. Jones moved that **House Joint Resolution No. 39**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator J. Jones moved that House Joint Resolution No. 39 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger

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

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator E. Jones moved that **House Joint Resolution No. 40**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Jones, E. III moved that House Joint Resolution No. 40 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Silverstein moved that **Senate Resolution No. 236**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Silverstein moved that Senate Resolution No. 236 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

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

The motion prevailed.
And the resolution was adopted.

At the hour of 1:15 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 6:42 o'clock p.m., the Senate resumed consideration of business.
Senator Hendon, presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to Senate Resolution 273

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

Senate Floor Amendment No. 9 to Senate Bill 744
Senate Floor Amendment No. 4 to Senate Bill 750

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

Senate Floor Amendment No. 5 to House Bill 3923

MESSAGES FROM THE HOUSE

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

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

SENATE BILL NO. 314

A bill for AN ACT concerning State government.

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

House Amendment No. 3 to SENATE BILL NO. 314
Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 3 TO SENATE BILL 314

AMENDMENT NO. 3. Amend Senate Bill 314 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Act on the Aging is amended by changing Section 4.04 as follows:
(20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

Sec. 4.04. Long Term Care Ombudsman Program.

(a) Long Term Care Ombudsman Program. The Department shall establish a Long Term Care Ombudsman Program, through the Office of State Long Term Care Ombudsman ("the Office"), in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended.

(b) Definitions. As used in this Section, unless the context requires otherwise:

(1) "Access" has the same meaning as in Section 1-104 of the Nursing Home Care Act, as now or hereafter amended; that is, it means the right to:

(i) Enter any long term care facility or assisted living or shared housing establishment or supportive living facility;

(ii) Communicate privately and without restriction with any resident, regardless of age, who consents to the communication;

(iii) Seek consent to communicate privately and without restriction with any resident, regardless of age;

(iv) Inspect the clinical and other records of a resident, regardless of age, with the express written consent of the resident;

(v) Observe all areas of the long term care facility or supportive living facilities, assisted living or shared housing establishment except the living area of any resident who protests the observation.

(2) "Long Term Care Facility" means (i) any facility as defined by Section 1-113 of the Nursing Home Care Act, as now or hereafter amended; and (ii) any skilled nursing facility or a nursing facility which meets the requirements of Section 1819(a), (b), (c), and (d) or Section 1919(a), (b), (c), and (d) of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and (d)).

(2.5) "Assisted living establishment" and "shared housing establishment" have the meanings given those terms in Section 10 of the Assisted Living and Shared Housing Act.

(2.7) "Supportive living facility" means a facility established under Section 5-5.01a of the Illinois Public Aid Code.

(3) "State Long Term Care Ombudsman" means any person employed by the Department to fulfill the requirements of the Office of State Long Term Care Ombudsman as required under the Older Americans Act of 1965, as now or hereafter amended, and Departmental policy.

(3.1) "Ombudsman" means any designated representative of a regional long term care ombudsman program; provided that the representative, whether he is paid for or volunteers his ombudsman services, shall be qualified and designated by the Office to perform the duties of an ombudsman as specified by the Department in rules and in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended.

(c) Ombudsman; rules. The Office of State Long Term Care Ombudsman shall be composed of at least one full-time ombudsman and shall include a system of designated regional long term care ombudsman programs. Each regional program shall be designated by the State Long Term Care Ombudsman as a subdivision of the Office and any representative of a regional program shall be treated as a representative of the Office.

The Department, in consultation with the Office, shall promulgate administrative rules in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended, to establish the responsibilities of the Department and the Office of State Long Term Care Ombudsman and the designated regional Ombudsman programs. The administrative rules shall include the responsibility of the Office and designated regional programs to investigate and resolve complaints made by or on behalf of residents of long term care facilities, supportive living facilities, and assisted living and shared

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housing establishments, including the option to serve residents under the age of 60, relating to actions, inaction, or decisions of providers, or their representatives, of long term care facilities, of supported living facilities, of assisted living and shared housing establishments, of public agencies, or of social services agencies, which may adversely affect the health, safety, welfare, or rights of such residents. The Office and designated regional programs may represent all residents, but are not required by this Act to represent persons under 60 years of age, except to the extent required by federal law. When necessary and appropriate, representatives of the Office shall refer complaints to the appropriate regulatory State agency. The Department, in consultation with the Office, shall cooperate with the Department of Human Services and other State agencies in providing information and training to designated regional long term care ombudsman programs about the appropriate assessment and treatment (including information about appropriate supportive services, treatment options, and assessment of rehabilitation potential) of the residents they serve, including children, persons with mental illness (other than Alzheimer's disease and related disorders), and persons with developmental disabilities.

The State Long Term Care Ombudsman and all other ombudsmen, as defined in paragraph (3.1) of subsection (b) must submit to background checks under the Health Care Worker Background Check Act and receive training, as prescribed by the Illinois Department on Aging, before visiting facilities. The training must include information specific to assisted living establishments, supportive living facilities, and shared housing establishments and to the rights of residents guaranteed under the corresponding Acts and administrative rules.

(c-5) Consumer Choice Information Reports. The Office shall:

(1) In collaboration with the Attorney General, create a Consumer Choice Information Report form to be completed by all licensed long term care facilities to aid Illinoisans and their families in making informed choices about long term care. The Office shall create a Consumer Choice Information Report for each type of licensed long term care facility.

(2) Develop a database of Consumer Choice Information Reports completed by licensed long term care facilities that includes information in the following consumer categories:

- (A) Medical Care, Services, and Treatment.
- (B) Special Services and Amenities.
- (C) Staffing.
- (D) Facility Statistics and Resident Demographics.
- (E) Ownership and Administration.
- (F) Safety and Security.
- (G) Meals and Nutrition.
- (H) Rooms, Furnishings, and Equipment.
- (I) Family, Volunteer, and Visitation Provisions.

(3) Make this information accessible to the public, including on the Internet by means of a hyperlink labeled "Resident's Right to Know" on the Office's World Wide Web home page.

(4) Have the authority, with the Attorney General, to verify that information provided by a facility is accurate.

(5) Request a new report from any licensed facility whenever it deems necessary.

(d) Access and visitation rights.

(1) In accordance with subparagraphs (A) and (E) of paragraph (3) of subsection (c) of Section 1819 and subparagraphs (A) and (E) of paragraph (3) of subsection (c) of Section 1919 of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E) and 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712 of the Older Americans Act of 1965, as now or hereafter amended (42 U.S.C. 3058f), a long term care facility, supportive living facility, assisted living establishment, and shared housing establishment must:

(i) permit immediate access to any resident, regardless of age, by a designated ombudsman; and

(ii) permit representatives of the Office, with the permission of the resident's legal representative or legal guardian, to examine a resident's clinical and other records, regardless of the age of the resident, and if a resident is unable to consent to such review, and has no legal guardian, permit representatives of the Office appropriate access, as defined by the Department, in consultation with the Office, in administrative rules, to the resident's records.

(2) Each long term care facility, supportive living facility, assisted living establishment, and shared housing establishment shall display, in multiple, conspicuous public places within the facility accessible to both visitors and residents and in an easily readable format, the address and phone number of the Office of the Long Term Care Ombudsman, in a manner prescribed by the Office.

(e) Immunity. An ombudsman or any representative of the Office participating in the good faith performance of his or her official duties shall have immunity from any liability (civil, criminal or otherwise) in any proceedings (civil, criminal or otherwise) brought as a consequence of the performance of his official duties.

(f) Business offenses.

(1) No person shall:

(i) Intentionally prevent, interfere with, or attempt to impede in any way any representative of the Office in the performance of his official duties under this Act and the Older Americans Act of 1965; or

(ii) Intentionally retaliate, discriminate against, or effect reprisals against any long term care facility resident or employee for contacting or providing information to any representative of the Office.

(2) A violation of this Section is a business offense, punishable by a fine not to exceed \$501.

(3) The Director of Aging, in consultation with the Office, shall notify the State's Attorney of the county in which the long term care facility, supportive living facility, or assisted living or shared housing establishment is located, or the Attorney General, of any violations of this Section.

(g) Confidentiality of records and identities. The Department shall establish procedures for the disclosure by the State Ombudsman or the regional ombudsmen entities of files maintained by the program. The procedures shall provide that the files and records may be disclosed only at the discretion of the State Long Term Care Ombudsman or the person designated by the State Ombudsman to disclose the files and records, and the procedures shall prohibit the disclosure of the identity of any complainant, resident, witness, or employee of a long term care provider unless:

(1) the complainant, resident, witness, or employee of a long term care provider or his or her legal representative consents to the disclosure and the consent is in writing;

(2) the complainant, resident, witness, or employee of a long term care provider gives consent orally; and the consent is documented contemporaneously in writing in accordance with such requirements as the Department shall establish; or

(3) the disclosure is required by court order.

(h) Legal representation. The Attorney General shall provide legal representation to any representative of the Office against whom suit or other legal action is brought in connection with the performance of the representative's official duties, in accordance with the State Employee Indemnification Act.

(i) Treatment by prayer and spiritual means. Nothing in this Act shall be construed to authorize or require the medical supervision, regulation or control of remedial care or treatment of any resident in a long term care facility operated exclusively by and for members or adherents of any church or religious denomination the tenets and practices of which include reliance solely upon spiritual means through prayer for healing.

(j) The Long Term Care Ombudsman Fund is created as a special fund in the State treasury to receive moneys for the express purposes of this Section. All interest earned on moneys in the fund shall be credited to the fund. Moneys contained in the fund shall be used to support the purposes of this Section.

(Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09; revised 9-5-08.)

Section 10. The State Finance Act is amended by adding Sections 5.723 and 5.724 as follows:

(30 ILCS 105/5.723 new)

Sec. 5.723. The Long Term Care Ombudsman Fund.

(30 ILCS 105/5.724 new)

Sec. 5.724. The Nursing Home Conversion Fund.

Section 15. The Nursing Home Care Act is amended by changing Sections 3-103 and 3-308 as follows:

(210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

Sec. 3-103. The procedure for obtaining a valid license shall be as follows:

(1) Application to operate a facility shall be made to the Department on forms furnished by the Department.

(2) All license applications shall be accompanied with an application fee. The fee for an annual license shall be \$995. Facilities that pay a fee or assessment pursuant to Article V-C of the Illinois Public Aid Code shall be exempt from the license fee imposed under this item (2). The fee for a 2-year license shall be double the fee for the annual license set forth in the preceding sentence. The fees collected shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver

Fund, which has been created as a special fund in the State treasury. This special fund is to be used by the Department for expenses related to the appointment of monitors and receivers as contained in Sections 3-501 through 3-517 of this Act, for the enforcement of this Act, and for implementation of the Abuse Prevention Review Team Act. The Department may reduce or waive a penalty pursuant to Section 3-308 only if that action will not threaten the ability of the Department to meet the expenses required to be met by the Long Term Care Monitor/Receiver Fund. At the end of each fiscal year, any funds in excess of \$1,000,000 held in the Long Term Care Monitor/Receiver Fund shall be deposited in the State's General Revenue Fund. The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

- (a) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;
- (b) The name and location of the facility for which a license is sought;
- (c) The name of the person or persons under whose management or supervision the facility will be conducted;
- (d) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and
- (e) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary.

(3) Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act". After the application is approved, the applicant shall advise the Department every 6 months of any changes in the information originally provided in the application.

(4) Other information necessary to determine the identity and qualifications of an applicant to operate a facility in accordance with this Act shall be included in the application as required by the Department in regulations.

(Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04; 94-931, eff. 6-26-06.)
(210 ILCS 45/3-308) (from Ch. 111 1/2, par. 4153-308)

Sec. 3-308. In the case of a Type "A" violation, a penalty may be assessed from the date on which the violation is discovered. In the case of a Type "B" or Type "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, the facility shall submit a plan of correction as provided in Section 3-303.

In the case of a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, a penalty shall be assessed on the date of notice of the violation, but the Director may reduce the amount or waive such payment for any of the following reasons:

- (a) The facility submits a true report of correction within 10 days;
- (b) The facility submits a plan of correction within 10 days and subsequently submits a true report of correction within 15 days thereafter;
- (c) The facility submits a plan of correction within 10 days which provides for a correction time that is less than or equal to 30 days and the Department approves such plan; or
- (d) The facility submits a plan of correction for violations involving substantial capital improvements which provides for correction within the initial 90 day limit provided under Section 3-303.

The Director or his or her designee may reallocate the amount of a penalty assessed pursuant to Section 3-305. A facility shall submit to the Director a written request for a penalty reduction, in a form prescribed by the Department, which includes an accounting of all costs for goods and services purchased in correcting the violation. The amount by which a penalty is reduced may not be greater than the amount of the costs reported by the facility. A facility that accepts a penalty reallocation under this Section waives its right to dispute a notice of violation and any remaining fine or penalty in an administrative hearing. The Director shall consider the following factors ~~in determinations to reduce or waive such penalties:~~

- (1) The violation has not caused actual harm to a resident. ;

(2) The facility has made a diligent effort to correct the violation and to prevent its recurrence. †

(3) The facility has no record of a pervasive pattern of the same or similar violations. † and

(4) ~~The facility did not benefit financially from committing or continuing the violation. The facility has a record of substantial compliance with this Act and the regulations promulgated hereunder.~~

At least annually, and upon request, the Department shall provide a list of all reallocations and the reasons for those reallocations.

If a plan of correction is approved and carried out for a Type "C" violation, the fine provided under Section 3-305 shall be suspended for the time period specified in the approved plan of correction. If a plan of correction is approved and carried out for a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder, with respect to a violation that continues after the date of notice of violation, the fine provided under Section 3-305 shall be suspended for the time period specified in the approved plan of correction.

If a good faith plan of correction is not received within the time provided by Section 3-303, a penalty may be assessed from the date of the notice of the Type "B" or "C" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder served under Section 3-301 until the date of the receipt of a good faith plan of correction, or until the date the violation is corrected, whichever is earlier. If a violation is not corrected within the time specified by an approved plan of correction or any lawful extension thereof, a penalty may be assessed from the date of notice of the violation, until the date the violation is corrected.

(Source: P.A. 87-549.)

Section 20. The Older Adult Services Act is amended by changing Section 30 as follows:

(320 ILCS 42/30)

Sec. 30. Nursing home conversion program.

(a) The Department of Public Health, in collaboration with the Department on Aging and the Department of Healthcare and Family Services, shall establish a nursing home conversion program. Start-up grants, pursuant to subsections (l) and (m) of this Section, shall be made available to nursing homes as appropriations permit as an incentive to reduce certified beds, retrofit, and retool operations to meet new service delivery expectations and demands.

(b) Grant moneys shall be made available for capital and other costs related to: (1) the conversion of all or a part of a nursing home to an assisted living establishment or a special program or unit for persons with Alzheimer's disease or related disorders licensed under the Assisted Living and Shared Housing Act or a supportive living facility established under Section 5-5.01a of the Illinois Public Aid Code; (2) the conversion of multi-resident bedrooms in the facility into single-occupancy rooms; and (3) the development of any of the services identified in a priority service plan that can be provided by a nursing home within the confines of a nursing home or transportation services. Grantees shall be required to provide a minimum of a 20% match toward the total cost of the project.

(c) Nothing in this Act shall prohibit the co-location of services or the development of multifunctional centers under subsection (f) of Section 20, including a nursing home offering community-based services or a community provider establishing a residential facility.

(d) A certified nursing home with at least 50% of its resident population having their care paid for by the Medicaid program is eligible to apply for a grant under this Section.

(e) Any nursing home receiving a grant under this Section shall reduce the number of certified nursing home beds by a number equal to or greater than the number of beds being converted for one or more of the permitted uses under item (1) or (2) of subsection (b). The nursing home shall retain the Certificate of Need for its nursing and sheltered care beds that were converted for 15 years. If the beds are reinstated by the provider or its successor in interest, the provider shall pay to the fund from which the grant was awarded, on an amortized basis, the amount of the grant. The Department shall establish, by rule, the bed reduction methodology for nursing homes that receive a grant pursuant to item (3) of subsection (b).

(f) Any nursing home receiving a grant under this Section shall agree that, for a minimum of 10 years after the date that the grant is awarded, a minimum of 50% of the nursing home's resident population shall have their care paid for by the Medicaid program. If the nursing home provider or its successor in interest ceases to comply with the requirement set forth in this subsection, the provider shall pay to the fund from which the grant was awarded, on an amortized basis, the amount of the grant.

(g) Before awarding grants, the Department of Public Health shall seek recommendations from the Department on Aging and the Department of Healthcare and Family Services. The Department of Public Health shall attempt to balance the distribution of grants among geographic regions, and among small and large nursing homes. The Department of Public Health shall develop, by rule, the criteria for the

award of grants based upon the following factors:

- (1) the unique needs of older adults (including those with moderate and low incomes), caregivers, and providers in the geographic area of the State the grantee seeks to serve;
- (2) whether the grantee proposes to provide services in a priority service area;
- (3) the extent to which the conversion or transition will result in the reduction of certified nursing home beds in an area with excess beds;
- (4) the compliance history of the nursing home; and
- (5) any other relevant factors identified by the Department, including standards of need.

(h) A conversion funded in whole or in part by a grant under this Section must not:

- (1) diminish or reduce the quality of services available to nursing home residents;
- (2) force any nursing home resident to involuntarily accept home-based or community-based services instead of nursing home services;
- (3) diminish or reduce the supply and distribution of nursing home services in any community below the level of need, as defined by the Department by rule; or
- (4) cause undue hardship on any person who requires nursing home care.

(i) The Department shall prescribe, by rule, the grant application process. At a minimum, every application must include:

- (1) the type of grant sought;
- (2) a description of the project;
- (3) the objective of the project;
- (4) the likelihood of the project meeting identified needs;
- (5) the plan for financing, administration, and evaluation of the project;
- (6) the timetable for implementation;
- (7) the roles and capabilities of responsible individuals and organizations;
- (8) documentation of collaboration with other service providers, local community

government leaders, and other stakeholders, other providers, and any other stakeholders in the community;

(9) documentation of community support for the project, including support by other service providers, local community government leaders, and other stakeholders;

(10) the total budget for the project;

(11) the financial condition of the applicant; and

(12) any other application requirements that may be established by the Department by rule.

(j) A conversion project funded in whole or in part by a grant under this Section is exempt from the requirements of the Illinois Health Facilities Planning Act. The Department of Public Health, however, shall send to the Health Facilities Planning Board a copy of each grant award made under this Section.

(k) Applications for grants are public information, except that nursing home financial condition and any proprietary data shall be classified as nonpublic data.

(l) The Department of Public Health may award grants from the Long Term Care Civil Money Penalties Fund established under Section 1919(h)(2)(A)(ii) of the Social Security Act and 42 CFR 488.422(g) if the award meets federal requirements.

(m) The Nursing Home Conversion Fund is created as a special fund in the State treasury. Moneys appropriated by the General Assembly or transferred from other sources for the purposes of this Section shall be deposited into the Fund. All interest earned on moneys in the fund shall be credited to the fund. Moneys contained in the fund shall be used to support the purposes of this Section.

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

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

Under the rules, the foregoing **Senate Bill No. 314**, with House Amendment No. 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

[May 28, 2009]

SENATE BILL NO. 807

A bill for AN ACT concerning children.

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

House Amendment No. 1 to SENATE BILL NO. 807

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 807

AMENDMENT NO. 1. Amend Senate Bill 807 by replacing everything after the enacting clause with the following:

"Section 5. The Children and Family Services Act is amended by changing Sections 5, 5a, and 9.9 as follows:

(20 ILCS 505/5) (from Ch. 23, par. 5005)

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years.

The term also includes persons under age 19 who:

(A) were committed to the Department pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, as amended, prior to the age of 18 and who continue under the jurisdiction of the court; or

(B) were accepted for care, service and training by the Department prior to the age of 18 and whose best interest in the discretion of the Department would be served by continuing that care, service and training because of severe emotional disturbances, physical disability, social adjustment or any combination thereof, or because of the need to complete an educational or vocational training program.

(2) "Homeless youth" means persons found within the State who are under the age of 19, are not in a safe and stable living situation and cannot be reunited with their families.

(3) "Child welfare services" means public social services which are directed toward the accomplishment of the following purposes:

(A) protecting and promoting the health, safety and welfare of children, including homeless, dependent or neglected children;

(B) remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation or delinquency of children;

(C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

(D) restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

(E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

(F) assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning, as described in subsection (l-1) of this Section so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

(G) (blank);

(H) (blank); and

(I) placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

[May 28, 2009]

- (i) who are in a foster home, or
- (ii) who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code, or
- (iii) who are female children who are pregnant, pregnant and parenting or parenting, or
- (iv) who are siblings, in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age.

(b) Nothing in this Section shall be construed to authorize the expenditure of public funds for the purpose of performing abortions.

(c) The Department shall establish and maintain tax-supported child welfare services and extend and seek to improve voluntary services throughout the State, to the end that services and care shall be available on an equal basis throughout the State to children requiring such services.

(d) The Director may authorize advance disbursements for any new program initiative to any agency contracting with the Department. As a prerequisite for an advance disbursement, the contractor must post a surety bond in the amount of the advance disbursement and have a purchase of service contract approved by the Department. The Department may pay up to 2 months operational expenses in advance. The amount of the advance disbursement shall be prorated over the life of the contract or the remaining months of the fiscal year, whichever is less, and the installment amount shall then be deducted from future bills. Advance disbursement authorizations for new initiatives shall not be made to any agency after that agency has operated during 2 consecutive fiscal years. The requirements of this Section concerning advance disbursements shall not apply with respect to the following: payments to local public agencies for child day care services as authorized by Section 5a of this Act; and youth service programs receiving grant funds under Section 17a-4.

(e) (Blank).

(f) (Blank).

(g) The Department shall establish rules and regulations concerning its operation of programs designed to meet the goals of child safety and protection, family preservation, family reunification, and adoption, including but not limited to:

- (1) adoption;
- (2) foster care;
- (3) family counseling;
- (4) protective services;
- (5) (blank);
- (6) homemaker service;
- (7) return of runaway children;
- (8) (blank);
- (9) placement under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25

or 5-740 of the Juvenile Court Act of 1987 in accordance with the federal Adoption Assistance and Child Welfare Act of 1980; and

- (10) interstate services.

Rules and regulations established by the Department shall include provisions for training Department staff and the staff of Department grantees, through contracts with other agencies or resources, in alcohol and drug abuse screening techniques approved by the Department of Human Services, as a successor to the Department of Alcoholism and Substance Abuse, for the purpose of identifying children and adults who should be referred to an alcohol and drug abuse treatment program for professional evaluation.

(h) If the Department finds that there is no appropriate program or facility within or available to the Department for a ward and that no licensed private facility has an adequate and appropriate program or none agrees to accept the ward, the Department shall create an appropriate individualized, program-oriented plan for such ward. The plan may be developed within the Department or through purchase of services by the Department to the extent that it is within its statutory authority to do.

(i) Service programs shall be available throughout the State and shall include but not be limited to the following services:

- (1) case management;
- (2) homemakers;
- (3) counseling;
- (4) parent education;
- (5) day care; and
- (6) emergency assistance and advocacy.

In addition, the following services may be made available to assess and meet the needs of children and

families:

- (1) comprehensive family-based services;
- (2) assessments;
- (3) respite care; and
- (4) in-home health services.

The Department shall provide transportation for any of the services it makes available to children or families or for which it refers children or families.

(j) The Department may provide categories of financial assistance and education assistance grants, and shall establish rules and regulations concerning the assistance and grants, to persons who adopt physically or mentally handicapped, older and other hard-to-place children who (i) immediately prior to their adoption were legal wards of the Department or (ii) were determined eligible for financial assistance with respect to a prior adoption and who become available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died. The Department may continue to provide financial assistance and education assistance grants for a child who was determined eligible for financial assistance under this subsection (j) in the interim period beginning when the child's adoptive parents died and ending with the finalization of the new adoption of the child by another adoptive parent or parents. The Department may also provide categories of financial assistance and education assistance grants, and shall establish rules and regulations for the assistance and grants, to persons appointed guardian of the person under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 for children who were wards of the Department for 12 months immediately prior to the appointment of the guardian.

The amount of assistance may vary, depending upon the needs of the child and the adoptive parents, as set forth in the annual assistance agreement. Special purpose grants are allowed where the child requires special service but such costs may not exceed the amounts which similar services would cost the Department if it were to provide or secure them as guardian of the child.

Any financial assistance provided under this subsection is inalienable by assignment, sale, execution, attachment, garnishment, or any other remedy for recovery or collection of a judgment or debt.

(j-5) The Department shall not deny or delay the placement of a child for adoption if an approved family is available either outside of the Department region handling the case, or outside of the State of Illinois.

(k) The Department shall accept for care and training any child who has been adjudicated neglected or abused, or dependent committed to it pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987.

(l) Before July 1, 2000, the Department may provide, and beginning July 1, 2000, the Department shall offer family preservation services, as defined in Section 8.2 of the Abused and Neglected Child Reporting Act, to help families, including adoptive and extended families. Family preservation services shall be offered (i) to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare, (ii) to reunite children with their families, or (iii) to maintain an adoptive placement. Family preservation services shall only be offered when doing so will not endanger the children's health or safety. With respect to children who are in substitute care pursuant to the Juvenile Court Act of 1987, family preservation services shall not be offered if a goal other than those of subdivisions (A), (B), or (B-1) of subsection (2) of Section 2-28 of that Act has been set. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

The Department shall notify the child and his family of the Department's responsibility to offer and provide family preservation services as identified in the service plan. The child and his family shall be eligible for services as soon as the report is determined to be "indicated". The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been filed, prior to concluding its investigation under Section 7.12 of the Abused and Neglected Child Reporting Act. However, the child's or family's willingness to accept services shall not be considered in the investigation. The Department may also provide services to any child or family who is the subject of any report of suspected child abuse or neglect or may refer such child or family to services available from other agencies in the community, even if the report is determined to be unfounded, if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary. The Department may also provide services to any child or family after completion of a family assessment, as an alternative to an investigation, as provided under the "differential response program" provided for in subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act.

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except a minor less than 15 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987 or a minor for whom an independent basis of abuse, neglect, or dependency exists, which must be defined by departmental rule. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency.

(l-1) The legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practically possible. To achieve this goal, the legislature directs the Department of Children and Family Services to conduct concurrent planning so that permanency may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status.

When determining reasonable efforts to be made with respect to a child, as described in this subsection, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

When a child is placed in foster care, the Department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove the child from the child's home. The Department must make reasonable efforts to reunify the family when temporary placement of the child occurs unless otherwise required, pursuant to the Juvenile Court Act of 1987. At any time after the dispositional hearing where the Department believes that further reunification services would be ineffective, it may request a finding from the court that reasonable efforts are no longer appropriate. The Department is not required to provide further reunification services after such a finding.

A decision to place a child in substitute care shall be made with considerations of the child's health, safety, and best interests. At the time of placement, consideration should also be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

The Department shall adopt rules addressing concurrent planning for reunification and permanency. The Department shall consider the following factors when determining appropriateness of concurrent planning:

- (1) the likelihood of prompt reunification;
 - (2) the past history of the family;
 - (3) the barriers to reunification being addressed by the family;
 - (4) the level of cooperation of the family;
 - (5) the foster parents' willingness to work with the family to reunite;
 - (6) the willingness and ability of the foster family to provide an adoptive home or long-term placement;
 - (7) the age of the child;
 - (8) placement of siblings.
- (m) The Department may assume temporary custody of any child if:
- (1) it has received a written consent to such temporary custody signed by the parents of the child or by the parent having custody of the child if the parents are not living together or by the guardian or custodian of the child if the child is not in the custody of either parent, or
 - (2) the child is found in the State and neither a parent, guardian nor custodian of the child can be located.

If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department in that residence until such time as a parent, guardian or custodian enters the home and expresses a willingness and apparent ability to ensure the child's health and safety and resume permanent charge of the child, or until a relative enters the home and is willing and able to ensure the child's health and safety and assume charge of the child until a parent, guardian or custodian enters the home and expresses such willingness and ability to ensure the child's safety and resume permanent charge. After a caretaker has remained in the home for a period not to exceed 12 hours, the

Department must follow those procedures outlined in Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

The Department shall have the authority, responsibilities and duties that a legal custodian of the child would have pursuant to subsection (9) of Section 1-3 of the Juvenile Court Act of 1987. Whenever a child is taken into temporary custody pursuant to an investigation under the Abused and Neglected Child Reporting Act, or pursuant to a referral and acceptance under the Juvenile Court Act of 1987 of a minor in limited custody, the Department, during the period of temporary custody and before the child is brought before a judicial officer as required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987, shall have the authority, responsibilities and duties that a legal custodian of the child would have under subsection (9) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall ensure that any child taken into custody is scheduled for an appointment for a medical examination.

A parent, guardian or custodian of a child in the temporary custody of the Department who would have custody of the child if he were not in the temporary custody of the Department may deliver to the Department a signed request that the Department surrender the temporary custody of the child. The Department may retain temporary custody of the child for 10 days after the receipt of the request, during which period the Department may cause to be filed a petition pursuant to the Juvenile Court Act of 1987. If a petition is so filed, the Department shall retain temporary custody of the child until the court orders otherwise. If a petition is not filed within the 10 day period, the child shall be surrendered to the custody of the requesting parent, guardian or custodian not later than the expiration of the 10 day period, at which time the authority and duties of the Department with respect to the temporary custody of the child shall terminate.

(m-1) The Department may place children under 18 years of age in a secure child care facility licensed by the Department that cares for children who are in need of secure living arrangements for their health, safety, and well-being after a determination is made by the facility director and the Director or the Director's designate prior to admission to the facility subject to Section 2-27.1 of the Juvenile Court Act of 1987. This subsection (m-1) does not apply to a child who is subject to placement in a correctional facility operated pursuant to Section 3-15-2 of the Unified Code of Corrections, unless the child is a ward who was placed under the care of the Department before being subject to placement in a correctional facility and a court of competent jurisdiction has ordered placement of the child in a secure care facility.

(n) The Department may place children under 18 years of age in licensed child care facilities when in the opinion of the Department, appropriate services aimed at family preservation have been unsuccessful and cannot ensure the child's health and safety or are unavailable and such placement would be for their best interest. Payment for board, clothing, care, training and supervision of any child placed in a licensed child care facility may be made by the Department, by the parents or guardians of the estates of those children, or by both the Department and the parents or guardians, except that no payments shall be made by the Department for any child placed in a licensed child care facility for board, clothing, care, training and supervision of such a child that exceed the average per capita cost of maintaining and of caring for a child in institutions for dependent or neglected children operated by the Department. However, such restriction on payments does not apply in cases where children require specialized care and treatment for problems of severe emotional disturbance, physical disability, social adjustment, or any combination thereof and suitable facilities for the placement of such children are not available at payment rates within the limitations set forth in this Section. All reimbursements for services delivered shall be absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.

(o) The Department shall establish an administrative review and appeal process for children and families who request or receive child welfare services from the Department. Children who are wards of the Department and are placed by private child welfare agencies, and foster families with whom those children are placed, shall be afforded the same procedural and appeal rights as children and families in the case of placement by the Department, including the right to an initial review of a private agency decision by that agency. The Department shall insure that any private child welfare agency, which accepts wards of the Department for placement, affords those rights to children and foster families. The Department shall accept for administrative review and an appeal hearing a complaint made by (i) a child or foster family concerning a decision following an initial review by a private child welfare agency or (ii) a prospective adoptive parent who alleges a violation of subsection (j-5) of this Section. An appeal of a decision concerning a change in the placement of a child shall be conducted in an expedited manner.

(p) There is hereby created the Department of Children and Family Services Emergency Assistance Fund from which the Department may provide special financial assistance to families which are in economic crisis when such assistance is not available through other public or private sources and the

assistance is deemed necessary to prevent dissolution of the family unit or to reunite families which have been separated due to child abuse and neglect. The Department shall establish administrative rules specifying the criteria for determining eligibility for and the amount and nature of assistance to be provided. The Department may also enter into written agreements with private and public social service agencies to provide emergency financial services to families referred by the Department. Special financial assistance payments shall be available to a family no more than once during each fiscal year and the total payments to a family may not exceed \$500 during a fiscal year.

(q) The Department may receive and use, in their entirety, for the benefit of children any gift, donation or bequest of money or other property which is received on behalf of such children, or any financial benefits to which such children are or may become entitled while under the jurisdiction or care of the Department.

The Department shall set up and administer no-cost, interest-bearing accounts in appropriate financial institutions for children for whom the Department is legally responsible and who have been determined eligible for Veterans' Benefits, Social Security benefits, assistance allotments from the armed forces, court ordered payments, parental voluntary payments, Supplemental Security Income, Railroad Retirement payments, Black Lung benefits, or other miscellaneous payments. Interest earned by each account shall be credited to the account, unless disbursed in accordance with this subsection.

In disbursing funds from children's accounts, the Department shall:

(1) Establish standards in accordance with State and federal laws for disbursing money from children's accounts. In all circumstances, the Department's "Guardianship Administrator" or his or her designee must approve disbursements from children's accounts. The Department shall be responsible for keeping complete records of all disbursements for each account for any purpose.

(2) Calculate on a monthly basis the amounts paid from State funds for the child's board and care, medical care not covered under Medicaid, and social services; and utilize funds from the child's account, as covered by regulation, to reimburse those costs. Monthly, disbursements from all children's accounts, up to 1/12 of \$13,000,000, shall be deposited by the Department into the General Revenue Fund and the balance over 1/12 of \$13,000,000 into the DCFS Children's Services Fund.

(3) Maintain any balance remaining after reimbursing for the child's costs of care, as specified in item (2). The balance shall accumulate in accordance with relevant State and federal laws and shall be disbursed to the child or his or her guardian, or to the issuing agency.

(r) The Department shall promulgate regulations encouraging all adoption agencies to voluntarily forward to the Department or its agent names and addresses of all persons who have applied for and have been approved for adoption of a hard-to-place or handicapped child and the names of such children who have not been placed for adoption. A list of such names and addresses shall be maintained by the Department or its agent, and coded lists which maintain the confidentiality of the person seeking to adopt the child and of the child shall be made available, without charge, to every adoption agency in the State to assist the agencies in placing such children for adoption. The Department may delegate to an agent its duty to maintain and make available such lists. The Department shall ensure that such agent maintains the confidentiality of the person seeking to adopt the child and of the child.

(s) The Department of Children and Family Services may establish and implement a program to reimburse Department and private child welfare agency foster parents licensed by the Department of Children and Family Services for damages sustained by the foster parents as a result of the malicious or negligent acts of foster children, as well as providing third party coverage for such foster parents with regard to actions of foster children to other individuals. Such coverage will be secondary to the foster parent liability insurance policy, if applicable. The program shall be funded through appropriations from the General Revenue Fund, specifically designated for such purposes.

(t) The Department shall perform home studies and investigations and shall exercise supervision over visitation as ordered by a court pursuant to the Illinois Marriage and Dissolution of Marriage Act or the Adoption Act only if:

(1) an order entered by an Illinois court specifically directs the Department to perform such services; and

(2) the court has ordered one or both of the parties to the proceeding to reimburse the Department for its reasonable costs for providing such services in accordance with Department rules, or has determined that neither party is financially able to pay.

The Department shall provide written notification to the court of the specific arrangements for supervised visitation and projected monthly costs within 60 days of the court order. The Department shall send to the court information related to the costs incurred except in cases where the court has determined the parties are financially unable to pay. The court may order additional periodic reports as

appropriate.

(u) In addition to other information that must be provided, whenever the Department places a child with a prospective adoptive parent or parents or in a licensed foster home, group home, child care institution, or in a relative home, the Department shall provide to the prospective adoptive parent or parents or other caretaker:

- (1) available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes excluding any information that identifies or reveals the location of any previous caretaker;
- (2) a copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it as related to the child; and
- (3) information containing details of the child's individualized educational plan when the child is receiving special education services.

The caretaker shall be informed of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetuation of sexual abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the children to be placed or currently in the home. The Department may prepare a written summary of the information required by this paragraph, which may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide known information verbally, if necessary, and must subsequently provide the information in writing as required by this subsection.

The information described in this subsection shall be provided in writing. In the case of emergency placements when time does not allow prior review, preparation, and collection of written information, the Department shall provide such information as it becomes available. Within 10 business days after placement, the Department shall obtain from the prospective adoptive parent or parents or other caretaker a signed verification of receipt of the information provided. Within 10 business days after placement, the Department shall provide to the child's guardian ad litem a copy of the information provided to the prospective adoptive parent or parents or other caretaker. The information provided to the prospective adoptive parent or parents or other caretaker shall be reviewed and approved regarding accuracy at the supervisory level.

(u-5) Effective July 1, 1995, only foster care placements licensed as foster family homes pursuant to the Child Care Act of 1969 shall be eligible to receive foster care payments from the Department. Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first.

(v) The Department shall access criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The Department shall provide for interactive computerized communication and processing equipment that permits direct on-line communication with the Department of State Police's central criminal history data repository. The Department shall comply with all certification requirements and provide certified operators who have been trained by personnel from the Department of State Police. In addition, one Office of the Inspector General investigator shall have training in the use of the criminal history information access system and have access to the terminal. The Department of Children and Family Services and its employees shall abide by rules and regulations established by the Department of State Police relating to the access and dissemination of this information.

(v-1) Prior to final approval for placement of a child, the Department shall conduct a criminal records background check of the prospective foster or adoptive parent, including fingerprint-based checks of national crime information databases. Final approval for placement shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, or if there is a felony conviction for physical assault, battery, or a drug-related offense committed within the past 5 years.

(v-2) Prior to final approval for placement of a child, the Department shall check its child abuse and

neglect registry for information concerning prospective foster and adoptive parents, and any adult living in the home. If any prospective foster or adoptive parent or other adult living in the home has resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry.

(w) Within 120 days of August 20, 1995 (the effective date of Public Act 89-392), the Department shall prepare and submit to the Governor and the General Assembly, a written plan for the development of in-state licensed secure child care facilities that care for children who are in need of secure living arrangements for their health, safety, and well-being. For purposes of this subsection, secure care facility shall mean a facility that is designed and operated to ensure that all entrances and exits from the facility, a building or a distinct part of the building, are under the exclusive control of the staff of the facility, whether or not the child has the freedom of movement within the perimeter of the facility, building, or distinct part of the building. The plan shall include descriptions of the types of facilities that are needed in Illinois; the cost of developing these secure care facilities; the estimated number of placements; the potential cost savings resulting from the movement of children currently out-of-state who are projected to be returned to Illinois; the necessary geographic distribution of these facilities in Illinois; and a proposed timetable for development of such facilities.

(Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06; 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08; 95-876, eff. 8-21-08.)

(20 ILCS 505/5a) (from Ch. 23, par. 5005a)

Sec. 5a. Reimbursable services for which the Department of Children and Family Services shall pay 100% of the reasonable cost pursuant to a written contract negotiated between the Department and the agency furnishing the services (which shall include but not be limited to the determination of reasonable cost, the services being purchased and the duration of the agreement) include, but are not limited to:

SERVICE ACTIVITIES

- Adjunctive Therapy;
- Child Care Service, including day care;
- Clinical Therapy;
- Custodial Service;
- Field Work Students;
- Food Service;
- Normal Education;
- In-Service Training;
- Intake or Evaluation, or both;
- Medical Services;
- Recreation;
- Social Work or Counselling, or both;
- Supportive Staff;
- Volunteers.

OBJECT EXPENSES

- Professional Fees and Contract Service Payments;
- Supplies;
- Telephone and Telegram;
- Occupancy;
- Local Transportation;
- Equipment and Other Fixed Assets, including amortization of same;
- Miscellaneous.

ADMINISTRATIVE COSTS

- Program Administration;
- Supervision and Consultation;
- Inspection and Monitoring for purposes of issuing licenses;
- Determination of Children who are eligible for federal or other reimbursement;
- Postage and Shipping;
- Outside Printing, Artwork, etc.;

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Subscriptions and Reference Publications;
Management and General Expense.

Reimbursement of administrative costs other than inspection and monitoring for purposes of issuing licenses may not exceed 20% of the costs for other services.

The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been called in to the hotline after completion of a family assessment as provided under subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act and the Department has determined that services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment. Acceptance of such services shall be voluntary.

All Object Expenses, Service Activities and Administrative Costs are allowable.

If a survey instrument is used in the rate setting process:

- (a) with respect to any day care centers, it shall be limited to those agencies which receive reimbursement from the State;
- (b) the cost survey instrument shall be promulgated by rule;
- (c) any requirements of the respondents shall be promulgated by rule;
- (d) all screens, limits or other tests of reasonableness, allowability and reimbursability shall be promulgated by rule;
- (e) adjustments may be made by the Department to rates when it determines that reported wage and salary levels are insufficient to attract capable caregivers in sufficient numbers.

The Department of Children and Family Services may pay 100% of the reasonable costs of research and valuation focused exclusively on services to wards of the Department. Such research projects must be approved, in advance, by the Director of the Department.

In addition to reimbursements otherwise provided for in this Section, the Department of Human Services shall, in accordance with annual written agreements, make advance quarterly disbursements to local public agencies for child day care services with funds appropriated from the Local Effort Day Care Fund.

Neither the Department of Children and Family Services nor the Department of Human Services shall pay or approve reimbursement for day care in a facility which is operating without a valid license or permit, except in the case of day care homes or day care centers which are exempt from the licensing requirements of the "Child Care Act of 1969".

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

(20 ILCS 505/9.9) (from Ch. 23, par. 5009.9)

Sec. 9.9. Review under Administrative Review Law. Any responsible parent or guardian affected by a final administrative decision of the Department in a hearing, conducted pursuant to this Act, may have the decision reviewed only under and in accordance with the Administrative Review Law as amended. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of such final administrative decisions of the Department. The term "administrative decision", is defined as in Section 3-101 of the Code of Civil Procedure.

Review of a final administrative decision under the Administrative Review Law is not applicable to a decision to conduct a family assessment as provided under subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act because no determination concerning child abuse or neglect is made and nothing is reported to the central register.

Appeals from all final orders and judgments entered by a court upon review of the Department's orders in any case may be taken by either party to the proceeding and shall be governed by the rules applicable to appeals in civil cases.

The remedy herein provided for appeal shall be exclusive, and no court shall have jurisdiction to review the subject matter of any order made by the Department except as herein provided.

(Source: P.A. 83-1037.)

Section 10. The Abused and Neglected Child Reporting Act is amended by changing Sections 7.4 and 11.6 as follows:

(325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

Sec. 7.4. (a) The Department shall be capable of receiving reports of suspected child abuse or neglect 24 hours a day, 7 days a week. Whenever the Department receives a report alleging that a child is a truant as defined in Section 26-2a of The School Code, as now or hereafter amended, the Department shall notify the superintendent of the school district in which the child resides and the appropriate superintendent of the educational service region. The notification to the appropriate officials by the Department shall not be considered an allegation of abuse or neglect under this Act.

(a-5) Beginning January 1, 2010, the Department of Children and Family Services may implement a 5-year demonstration of a "differential response program" in accordance with criteria, standards, and procedures prescribed by rule. The program may provide that, upon receiving a report, the Department shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child abuse or neglect.

For purposes of this subsection (a-5), "family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. "Family assessment" does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

For purposes of this subsection (a-5), "investigation" means fact-gathering related to the current safety of a child and the risk of subsequent abuse or neglect that determines whether a report of suspected child abuse or neglect should be indicated or unfounded and whether child protective services are needed.

Under the "differential response program" implemented under this subsection (a-5), the Department:

(1) Shall conduct an investigation on reports involving substantial child abuse or neglect.

(2) Shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child abuse or neglect or a serious threat to the child's safety exists.

(3) May conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the Department may consider issues including, but not limited to, child safety, parental cooperation, and the need for an immediate response.

(4) Shall promulgate criteria, standards, and procedures that shall be applied in making this determination, taking into consideration the Child Endangerment Risk Assessment Protocol of the Department.

(5) May conduct a family assessment on a report that was initially screened and assigned for an investigation.

In determining that a complete investigation is not required, the Department must document the reason for terminating the investigation and notify the local law enforcement agency or the Department of State Police if the local law enforcement agency or Department of State Police is conducting a joint investigation.

Once it is determined that a "family assessment" will be implemented, the case shall not be reported to the central register of abuse and neglect reports.

During a family assessment, the Department shall collect any available and relevant information to determine child safety, risk of subsequent abuse or neglect, and family strengths.

Information collected includes, but is not limited to, when relevant: information with regard to the person reporting the alleged abuse or neglect, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being abused or neglected; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged abuse or neglect. Information relevant to the assessment must be asked for, and may include:

(A) The child's sex and age, prior reports of abuse or neglect, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this paragraph (A) is consistent with other information collected during the course of the assessment or investigation.

(B) The alleged offender's age, a record check for prior reports of abuse or neglect, and criminal charges and convictions. The alleged offender may submit supporting documentation relevant to the assessment.

(C) Collateral source information regarding the alleged abuse or neglect and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or care of the child maintained by any facility, clinic, or health care professional, and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child.

(D) Information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this subsection (a-5) precludes the Department from collecting other relevant information necessary to conduct the assessment or investigation. Nothing in this subsection (a-5) shall be construed to allow the name or identity of a reporter to be disclosed in violation of the protections afforded under

Section 7.19 of this Act.

After conducting the family assessment, the Department shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent abuse or neglect.

Upon completion of the family assessment, if the Department concludes that no services shall be offered, then the case shall be closed. If the Department concludes that services shall be offered, the Department shall develop a family preservation plan and offer or refer services to the family.

At any time during a family assessment, if the Department believes there is any reason to stop the assessment and conduct an investigation based on the information discovered, the Department shall do so.

The procedures available to the Department in conducting investigations under this Act shall be followed as appropriate during a family assessment.

The Department shall arrange for an independent evaluation of the "differential response program" authorized and implemented under this subsection (a-5) to determine whether it is meeting the goals in accordance with Section 2 of this Act. The Department may adopt administrative rules necessary for the execution of this Section, in accordance with Section 4 of the Children and Family Services Act.

The demonstration conducted under this subsection (a-5) shall become a permanent program on January 1, 2015, upon completion of the demonstration project period.

(b) (1) The following procedures shall be followed in the investigation of all reports of suspected abuse or neglect of a child, except as provided in subsection (c) of this Section.

(2) If, during a family assessment authorized by subsection (a-5) or an investigation, it appears that the immediate safety or well-being of a child is endangered,

that the family may flee or the child disappear, or that the facts otherwise so warrant, the Child Protective Service Unit shall commence an investigation immediately, regardless of the time of day or night. ~~All other investigations~~ ~~In all other cases, investigation~~ shall be commenced within 24 hours of receipt of the report. Upon receipt of a report, the Child Protective Service Unit shall conduct a family assessment authorized by subsection (a-5) or begin make an initial investigation and make an initial determination whether the report is a good faith indication of alleged child abuse or neglect.

(3) Based on an initial investigation, if ~~if~~ the Unit determines the report is a good faith indication of alleged child abuse

or neglect, then a formal investigation shall commence and, pursuant to Section 7.12 of this Act, may or may not result in an indicated report. The formal investigation shall include: direct contact with the subject or subjects of the report as soon as possible after the report is received; an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report; the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under this Act in regard to amendment or expungement. To fulfill the requirements of this Section, the Child Protective Service Unit shall have the capability of providing or arranging for comprehensive emergency services to children and families at all times of the day or night.

(4) If (i) at the conclusion of the Unit's initial investigation of a report, the Unit determines the report to be a good faith indication of alleged child abuse or neglect that warrants a formal investigation by the Unit, the Department, any law enforcement agency or any other responsible agency and (ii) the person who is alleged to have caused the abuse or neglect is employed or otherwise engaged in an activity resulting in frequent contact with children and the alleged abuse or neglect are in the course of such employment or activity, then the Department shall, except in investigations where the Director determines that such notification would be detrimental to the Department's investigation, inform the appropriate supervisor or administrator of that employment or activity that the Unit has commenced a formal investigation pursuant to this Act, which may or may not result in an indicated report. The Department shall also notify the person being investigated, unless the Director determines that such notification would be detrimental to the Department's investigation.

(c) In an investigation of a report of suspected abuse or neglect of a child by a school employee at a school or on school grounds, the Department shall make reasonable efforts to follow the following procedures:

(1) Investigations involving teachers shall not, to the extent possible, be conducted

when the teacher is scheduled to conduct classes. Investigations involving other school employees shall be conducted so as to minimize disruption of the school day. The school employee accused of child abuse or neglect may have his superior, his association or union representative and his attorney present at any interview or meeting at which the teacher or administrator is present. The accused school employee shall be informed by a representative of the Department, at any interview or meeting, of the accused school employee's due process rights and of the steps in the investigation process. The information shall include, but need not necessarily be limited to the right, subject to the approval of the Department, of the school employee to confront the accuser, if the accuser is 14 years of age or older, or the right to review the specific allegations which gave rise to the investigation, and the right to review all materials and evidence that have been submitted to the Department in support of the allegation. These due process rights shall also include the right of the school employee to present countervailing evidence regarding the accusations.

(2) If a report of neglect or abuse of a child by a teacher or administrator does not involve allegations of sexual abuse or extreme physical abuse, the Child Protective Service Unit shall make reasonable efforts to conduct the initial investigation in coordination with the employee's supervisor.

If the Unit determines that the report is a good faith indication of potential child abuse or neglect, it shall then commence a formal investigation under paragraph (3) of subsection (b) of this Section.

(3) If a report of neglect or abuse of a child by a teacher or administrator involves an allegation of sexual abuse or extreme physical abuse, the Child Protective Unit shall commence an investigation under paragraph (2) of subsection (b) of this Section.

(c-5) In any instance in which a report is made or caused to be made by a school district employee involving the conduct of a person employed by the school district, at the time the report was made, as required under Section 4 of this Act, the Child Protective Service Unit shall send a copy of its final finding report to the general superintendent of that school district.

(d) If the Department has contact with an employer, or with a religious institution or religious official having supervisory or hierarchical authority over a member of the clergy accused of the abuse of a child, in the course of its investigation, the Department shall notify the employer or the religious institution or religious official, in writing, when a report is unfounded so that any record of the investigation can be expunged from the employee's or member of the clergy's personnel or other records. The Department shall also notify the employee or the member of the clergy, in writing, that notification has been sent to the employer or to the appropriate religious institution or religious official informing the employer or religious institution or religious official that the Department's investigation has resulted in an unfounded report.

(e) Upon request by the Department, the Department of State Police and law enforcement agencies are authorized to provide criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) to properly designated employees of the Department of Children and Family Services if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The request shall be in the form and manner required by the Department of State Police. Any information obtained by the Department of Children and Family Services under this Section is confidential and may not be transmitted outside the Department of Children and Family Services other than to a court of competent jurisdiction or unless otherwise authorized by law. Any employee of the Department of Children and Family Services who transmits confidential information in violation of this Section or causes the information to be transmitted in violation of this Section is guilty of a Class A misdemeanor unless the transmittal of the information is authorized by this Section or otherwise authorized by law.

(Source: P.A. 95-908, eff. 8-26-08.)

(325 ILCS 5/11.6) (from Ch. 23, par. 2061.6)

Sec. 11.6. All final administrative decisions of the Department under this Act are subject to judicial review under the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Review of a final administrative decision under the Administrative Review Law is not applicable to a decision to conduct a family assessment under subsection (a-5) of Section 7.4 because no determination concerning child abuse or neglect is made and nothing is reported to the central register.

(Source: P.A. 82-783.)"

Under the rules, the foregoing **Senate Bill No. 807**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1483

A bill for AN ACT concerning professional regulation.

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

House Amendment No. 1 to SENATE BILL NO. 1483

House Amendment No. 2 to SENATE BILL NO. 1483

House Amendment No. 3 to SENATE BILL NO. 1483

House Amendment No. 4 to SENATE BILL NO. 1483

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1483

AMENDMENT NO. 1. Amend Senate Bill 1483 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 3 and by adding Section 9.3 as follows:

(225 ILCS 110/3) (from Ch. 111, par. 7903)

(Section scheduled to be repealed on January 1, 2018)

Sec. 3. Definitions. The following words and phrases shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

- (a) "Department" means the Department of Financial and Professional Regulation.
- (b) "Secretary" means the Secretary of Financial and Professional Regulation.
- (c) "Board" means the Board of Speech-Language Pathology and Audiology established under Section 5 of this Act.
- (d) "Speech-Language Pathologist" means a person who has received a license pursuant to this Act and who engages in the practice of speech-language pathology.
- (e) "Audiologist" means a person who has received a license pursuant to this Act and who engages in the practice of audiology.
- (f) "Public member" means a person who is not a health professional. For purposes of board membership, any person with a significant financial interest in a health service or profession is not a public member.
- (g) "The practice of audiology" is the application of nonmedical methods and procedures for the identification, measurement, testing, appraisal, prediction, habilitation, rehabilitation, or instruction related to hearing and disorders of hearing. These procedures are for the purpose of counseling, consulting and rendering or offering to render services or for participating in the planning, directing or conducting of programs that are designed to modify communicative disorders involving speech, language or auditory function related to hearing loss. The practice of audiology may include, but shall not be limited to, the following:
 - (1) any task, procedure, act, or practice that is necessary for the evaluation of hearing or vestibular function;
 - (2) training in the use of amplification devices;
 - (3) the fitting, dispensing, or servicing of hearing instruments; and
 - (4) performing basic speech and language screening tests and procedures consistent with audiology training.
- (h) "The practice of speech-language pathology" is the application of nonmedical methods and procedures for the identification, measurement, testing, appraisal, prediction, habilitation, rehabilitation, and modification related to communication development, and disorders or disabilities of speech, language, voice, swallowing, and other speech, language and voice related disorders. These procedures

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are for the purpose of counseling, consulting and rendering or offering to render services, or for participating in the planning, directing or conducting of programs that are designed to modify communicative disorders and conditions in individuals or groups of individuals involving speech, language, voice and swallowing function.

"The practice of speech-language pathology" shall include, but shall not be limited to, the following:

(1) hearing screening tests and aural rehabilitation procedures consistent with speech-language pathology training;

(2) tasks, procedures, acts or practices that are necessary for the evaluation of, and training in the use of, augmentative communication systems, communication variation, cognitive rehabilitation, non-spoken language production and comprehension; and -

(3) the use of rigid and flexible endoscopes for the sole purpose of observing and obtaining images of the pharynx and larynx.

(i) "Speech-language pathology assistant" means a person who has received a license pursuant to this Act to assist a speech-language pathologist in the manner provided in this Act.

(Source: P.A. 94-528, eff. 8-10-05; 95-465, eff. 8-27-07.)

(225 ILCS 110/9.3 new)

(Section scheduled to be repealed on January 1, 2018)

Sec. 9.3. Requirements for the use of endoscopes.

(a) A speech-language pathologist may perform an endoscopic procedure using either a rigid or flexible endoscope for the sole purpose of observing and obtaining images of the pharynx and larynx if all of the following requirements have been met:

(1) If the patient has a voice disorder or vocal cord dysfunction, he or she must be examined by a physician who has been granted hospital privileges to perform these procedures and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(2) If the patient has a swallowing disorder or a velopharyngeal disorder, he or she must be examined by a physician licensed to practice medicine in all its branches and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(3) The speech-language pathologist has (i) been granted hospital privileges to perform these procedures or (ii) completed a hands-on university or college course, or a hands-on seminar or workshop in endoscopy as a technique for investigating speech and swallowing, which qualifies for continuing education credit with the American Speech-Language-Hearing Association (ASHA).

(4) The speech-language pathologist must send a written report or recorded copy of the observations recorded during the procedure to the referring physician, and if the speech-language pathologist performs the procedure and observes an abnormality or the possibility of a condition that requires medical attention, the speech-language pathologist shall immediately refer the patient to the referring physician for examination.

(5) In no instance may the speech-language pathologist use an endoscope to perform any procedure that disrupts living tissue.

(b) A speech-language pathologist may use a flexible endoscope for the sole purpose of observing and obtaining images of the pharynx and larynx if, in addition to meeting the requirements of subsection (a) of this Section, all of the following requirements have been met:

(1) The speech-language pathologist has observed 10 procedures performed by either (i) a physician who has been granted hospital privileges to perform these procedures or (ii) a speech-language pathologist who has met the requirements of item (3) of subsection (a) of this Section and items (1) and (2) of this subsection (b) in a licensed health care facility or a clinic affiliated with a hospital, university, college, or ASHA-approved continuing education course that has emergency medical backup and a physician available or in the office of a physician who is available.

(2) The speech-language pathologist has successfully performed 25 procedures under the direct supervision of a physician who has been granted hospital privileges to perform these procedures; provided, however, that the physician may delegate the supervision of up to 10 of the 25 procedures to a speech-language pathologist who has met the requirements of this Section. The supervising physician shall provide written verification that the speech-language pathologist in training has successfully completed the requirements of this item (2) demonstrating the ability to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the Board.

(3) The observation of the patient's function must take place (i) under the supervision of a physician and (ii) in a licensed health care facility or a clinic affiliated with a hospital, university, or college that

has emergency medical backup and a physician available or in the office of a physician who is available.

(c) Nothing in this Section shall be construed to authorize a medical diagnosis.

(d) Nothing in this Section shall preclude the use of a rigid or flexible endoscope for the purpose of training or research done in conjunction with a speech-language pathology program accredited by the Council for Academic Accreditation, provided that (i) emergency medical backup is available when flexible endoscopy is performed and (ii) such training or research is performed with the participation of either a physician who has been granted hospital privileges to perform these procedures or a speech-language pathologist who has met the requirements of item (3) of subsection (a) of this Section and items (1) and (2) of subsection (b) of this Section.

(e) Nothing in this Section shall be construed to allow a speech-language pathologist to use an anesthetic without the authorization of a physician who has been granted hospital privileges to perform the procedure.

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

AMENDMENT NO. 2 TO SENATE BILL 1483

AMENDMENT NO. 2. Amend Senate Bill 1483, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 3 and by adding Section 9.3 as follows:

(225 ILCS 110/3) (from Ch. 111, par. 7903)

(Section scheduled to be repealed on January 1, 2018)

Sec. 3. Definitions. The following words and phrases shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Financial and Professional Regulation.

(b) "Secretary" means the Secretary of Financial and Professional Regulation.

(c) "Board" means the Board of Speech-Language Pathology and Audiology established under Section 5 of this Act.

(d) "Speech-Language Pathologist" means a person who has received a license pursuant to this Act and who engages in the practice of speech-language pathology.

(e) "Audiologist" means a person who has received a license pursuant to this Act and who engages in the practice of audiology.

(f) "Public member" means a person who is not a health professional. For purposes of board membership, any person with a significant financial interest in a health service or profession is not a public member.

(g) "The practice of audiology" is the application of nonmedical methods and procedures for the identification, measurement, testing, appraisal, prediction, habilitation, rehabilitation, or instruction related to hearing and disorders of hearing. These procedures are for the purpose of counseling, consulting and rendering or offering to render services or for participating in the planning, directing or conducting of programs that are designed to modify communicative disorders involving speech, language or auditory function related to hearing loss. The practice of audiology may include, but shall not be limited to, the following:

(1) any task, procedure, act, or practice that is necessary for the evaluation of hearing or vestibular function;

(2) training in the use of amplification devices;

(3) the fitting, dispensing, or servicing of hearing instruments; and

(4) performing basic speech and language screening tests and procedures consistent with audiology training.

(h) "The practice of speech-language pathology" is the application of nonmedical methods and procedures for the identification, measurement, testing, appraisal, prediction, habilitation, rehabilitation, and modification related to communication development, and disorders or disabilities of speech, language, voice, swallowing, and other speech, language and voice related disorders. These procedures are for the purpose of counseling, consulting and rendering or offering to render services, or for participating in the planning, directing or conducting of programs that are designed to modify communicative disorders and conditions in individuals or groups of individuals involving speech, language, voice and swallowing function.

"The practice of speech-language pathology" shall include, but shall not be limited to, the following:

(1) hearing screening tests and aural rehabilitation procedures consistent with

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speech-language pathology training;

(2) tasks, procedures, acts or practices that are necessary for the evaluation of, and training in the use of, augmentative communication systems, communication variation, cognitive rehabilitation, non-spoken language production and comprehension; and -

(3) the use of rigid or flexible laryngoscopes for the sole purpose of observing and obtaining images of the pharynx and larynx in accordance with Section 9.3 of this Act.

(i) "Speech-language pathology assistant" means a person who has received a license pursuant to this Act to assist a speech-language pathologist in the manner provided in this Act.

(j) "Physician" means a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

(Source: P.A. 94-528, eff. 8-10-05; 95-465, eff. 8-27-07.)

(225 ILCS 110/9.3 new)

(Section scheduled to be repealed on January 1, 2018)

Sec. 9.3. Requirements for the use of laryngoscopes.

(a) A speech-language pathologist may perform an endoscopic procedure using a rigid laryngoscope for the sole purpose of observing and obtaining images of the pharynx and larynx if all of the following requirements have been met:

(1) The speech-language pathologist has observed 5 procedures performed by either (i) a physician who has been granted hospital privileges to perform these procedures or (ii) a speech-language pathologist who has met the requirements of items (1), (2), and (5) of this subsection (a) in a licensed health care facility or a clinic affiliated with a hospital, university, college, or ASHA-approved continuing education course that has emergency medical backup and a physician available or in the office of a physician who is available or in the office of a speech-language pathologist provided that he or she maintains cardiopulmonary resuscitation (CPR) certification.

(2) The speech-language pathologist has successfully performed 10 procedures under the direct supervision of a physician who has been granted hospital privileges to perform these procedures; provided, however, that the physician may delegate the supervision of the procedures to a speech-language pathologist who has met the requirements of this subsection (a) or subsection (c) of this Section. The supervising physician shall provide written verification that the speech-language pathologist in training has successfully completed the requirements of this item (2) demonstrating the ability to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the Board.

(3) If the patient has a voice disorder or vocal cord dysfunction, he or she must be examined by a physician who has been granted hospital privileges to perform these procedures and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(4) If the patient has a swallowing disorder or a velopharyngeal disorder, he or she must be examined by a physician licensed to practice medicine in all its branches and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(5) The speech-language pathologist has completed a hands-on university or college course, or a hands-on seminar or workshop in endoscopy as a technique for investigating speech and swallowing, which qualifies for continuing education credit with the American Speech-Language-Hearing Association (ASHA).

(6) The speech-language pathologist must send a written report or recorded copy of the observations recorded during an evaluation to the referring physician, and if the speech-language pathologist performs any procedure and observes an abnormality or the possibility of a condition that requires medical attention, the speech-language pathologist shall immediately refer the patient to the referring physician for examination.

(7) In no instance may the speech-language pathologist use a laryngoscope to perform any procedure that disrupts living tissue.

(8) The speech-language pathologist is using the rigid laryngoscope in (i) a licensed healthcare facility or clinic affiliated with a hospital, university, college, or ASHA-approved continuing education course that has emergency medical back-up and a physician available, (ii) an office of a physician who is available, or (iii) in the speech language pathologist's office provided that he or she maintains cardiopulmonary resuscitation (CPR) certification.

(b) A speech-language pathologist may use a flexible laryngoscope for the sole purpose of observing and obtaining images of the pharynx and larynx if all of the following requirements have been met:

(1) The speech-language pathologist has observed 10 procedures performed by either (i) a physician

who has been granted hospital privileges to perform these procedures or (ii) a speech-language pathologist who has met the requirements of items (1), (2), and (6) of this subsection (b) in a licensed health care facility or a clinic affiliated with a hospital, university, college, or ASHA-approved continuing education course that has emergency medical back-up and a physician available or in the office of a physician who is available.

(2) The speech-language pathologist has successfully performed 25 procedures under the direct supervision of a physician who has been granted hospital privileges to perform these procedures; provided, however, that the physician may delegate the supervision of the procedures to a speech-language pathologist who has met the requirements of this subsection (b) or subsection (c) of this Section. The supervising physician shall provide written verification that the speech-language pathologist in training has successfully completed the requirements of this item (2) demonstrating the ability to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the Board.

(3) The observation of the patient's function must take place (i) under the supervision of a physician and (ii) in a licensed health care facility or a clinic affiliated with a hospital, university, or college that has emergency medical backup and a physician available or in the office of a physician who is available.

(4) If the patient has a voice disorder or vocal cord dysfunction, he or she must be examined by a physician licensed to practice medicine in all its branches who has been granted hospital privileges to perform these procedures and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(5) If the patient has a swallowing disorder or a velopharyngeal disorder, he or she must be examined by a physician licensed to practice medicine in all its branches and the speech-language pathologist must have received from that physician a written referral and direct authorization to perform the procedure.

(6) The speech-language pathologist has completed a hands-on university or college course, or a hands-on seminar or workshop in endoscopy as a technique for investigating speech and swallowing, which qualifies for continuing education credit with the American Speech-Language-Hearing Association (ASHA).

(7) The speech-language pathologist must send a written report or recorded copy of the observations recorded during an evaluation to the referring physician, and if the speech-language pathologist performs any procedure and observes an abnormality or the possibility of a condition that requires medical attention, the speech-language pathologist shall immediately refer the patient to the referring physician for examination.

(8) In no instance may the speech-language pathologist use a laryngoscope to perform any procedure that disrupts living tissue.

(c) A speech-language pathologist seeking to use both a rigid laryngoscope and a flexible laryngoscope for the sole purpose of observing and obtaining images of the pharynx and larynx shall be exempt from meeting the separate requirements of items (1) and (2) of subsection (a) and items (1) and (2) of subsection (b), if he or she meets the requirements of items (3) through (8) of subsection (a), items (3) through (8) of subsection (b), and the following:

(1) The speech-language pathologist has observed 15 procedures performed by either (i) a physician who has been granted hospital privileges to perform these procedures or (ii) a speech-language pathologist who has met the requirements of items (1), (2), and (6) of subsection (b) in a licensed health care facility or a clinic affiliated with a hospital, university, college, or ASHA-approved continuing education course that has emergency medical back-up and a physician available or in the office of a physician who is available.

(2) The speech-language pathologist has successfully performed 30 procedures, at least 20 of which must be with a flexible laryngoscope and at least 5 of which must be with a rigid laryngoscope, under the direct supervision of a physician who has been granted hospital privileges to perform these procedures; provided, however, that the physician may delegate the supervision of the procedures to a speech-language pathologist who has met the requirements of subsection (a) or (c) of this Section in the case of a rigid laryngoscope or subsection (b) or (c) of this Section in the case of a flexible laryngoscope. The supervising physician shall provide written verification that the speech-language pathologist in training has successfully completed the requirements of this item (2) demonstrating the ability to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the Board.

(d) The requirements of items (1) and (2) of subsection (a), items (1) and (2) of subsection (b), and subsection (c) shall not apply to the practice of speech-language pathologists in a hospital or hospital-affiliate. In order to practice in a hospital or hospital-affiliate, a speech-language pathologist

must possess clinical privileges for flexible or rigid laryngoscope procedures recommended by the hospital or hospital affiliate medical staff and approved by the hospital or hospital affiliate governing body.

(e) Nothing in this Section shall be construed to authorize a medical diagnosis.

(f) Nothing in this Section shall preclude the use of a rigid or flexible laryngoscope for the purpose of training or research done in conjunction with a speech-language pathology program accredited by the Council for Academic Accreditation, provided that (i) emergency medical backup is available when flexible laryngoscopy is performed and (ii) such training or research is performed with the participation of either a physician who has been granted hospital privileges to perform these procedures or a speech-language pathologist who has met the requirements of items (1), (2), and (5) of subsection (a) of this Section or items (1), (2), and (6) of subsection (b) of this Section, or both, whichever is applicable.

(g) Nothing in this Section shall be construed to allow a speech-language pathologist to use an anesthetic without specific physician authorization included in the patient referral.

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

AMENDMENT NO. 3 TO SENATE BILL 1483

AMENDMENT NO. 3. Amend Senate Bill 1483, AS AMENDED, with reference to page and line numbers of House Amendment No. 2 on page 11, line 26, by replacing "Section or" with "Section"; and

on page 12, line 1, by replacing "both" with "subsection (c) of this Section".

AMENDMENT NO. 4 TO SENATE BILL 1483

AMENDMENT NO. 4. Amend Senate Bill 1483, AS AMENDED, with reference to page and line numbers of House Amendment No. 2 as follows:

on page 11, by replacing lines 5 and 6 with the following:

"(d) The requirements of this subsection 9.3".

Under the rules, the foregoing **Senate Bill No. 1483**, with House Amendments numbered 1, 2, 3 and 4, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1511

A bill for AN ACT concerning local government.

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

House Amendment No. 1 to SENATE BILL NO. 1511

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1511

AMENDMENT NO. 1. Amend Senate Bill 1511 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 5-1063 as follows:

(55 ILCS 5/5-1063) (from Ch. 34, par. 5-1063)

Sec. 5-1063. Building construction, alteration and maintenance. For the purpose of promoting and safeguarding the public health, safety, comfort and welfare, a county board may prescribe by resolution or ordinance reasonable rules and regulations (a) governing the construction and alteration of all buildings, structures and camps or parks accommodating persons in house trailers, house cars, cabins or tents and parts and appurtenances thereof and governing the maintenance thereof in a condition reasonably safe from hazards of fire, explosion, collapse, electrocution, flooding, asphyxiation,

[May 28, 2009]

contagion and the spread of infectious disease, where such buildings, structures and camps or parks are located outside the limits of cities, villages and incorporated towns, but excluding those for agricultural purposes on farms including farm residences, but any such resolution or ordinance shall be subject to any rule or regulation heretofore or hereafter adopted by the State Fire Marshal pursuant to "An Act to regulate the storage, transportation, sale and use of gasoline and volatile oils", approved June 28, 1919, as amended; (b) for prohibiting the use for residential purposes of buildings and structures already erected or moved into position which do not comply with such rules and regulations; and (c) for the restraint, correction and abatement of any violations.

In addition, the county board may by resolution or ordinance require that each occupant of an industrial or commercial building located outside the limits of cities, villages and incorporated towns obtain an occupancy permit issued by the county. The county board may by resolution or ordinance require that an occupancy permit be obtained for each newly constructed residential dwelling located outside the limits of cities, villages, and incorporated towns, but may not require more than one occupancy permit per newly constructed residential dwelling. Such permit may be valid for the duration of the occupancy or for a specified period of time, and shall be valid only with respect to the occupant to which it is issued. A county board may not impose a fee on an occupancy permit for a newly constructed residential dwelling issued pursuant to this Section. If, before the effective date of this amendatory Act of the 96th General Assembly, a county board imposes a fee on an occupancy permit for a newly constructed residential dwelling, then the county board may continue to impose the occupancy permit fee.

Within 30 days after its adoption, such resolution or ordinance shall be printed in book or pamphlet form, published by authority of the County Board; or it shall be published at least once in a newspaper published and having general circulation in the county; or if no newspaper is published therein, copies shall be posted in at least 4 conspicuous places in each township or Road District. No such resolution or ordinance shall take effect until 10 days after it is published or posted. Where such building or camp or park rules and regulations have been published previously in book or pamphlet form, the resolution or ordinance may provide for the adoption of such rules and regulations or portions thereof, by reference thereto without further printing, publication or posting, provided that not less than 3 copies of such rules and regulations in book or pamphlet form shall have been filed, in the office of the County Clerk, for use and examination by the public for at least 30 days prior to the adoption thereof by the County Board.

Beginning on the effective date of this amendatory Act of the 92nd General Assembly, any county adopting a new building code or amending an existing building code under this Section must, at least 30 days before adopting the building code or amendment, provide an identification of the building code, by title and edition, or the amendment to the Illinois Building Commission for identification on the Internet. For the purposes of this Section, "building code" means any ordinance, resolution, law, housing or building code, or zoning ordinance that establishes construction related activities applicable to structures in the county.

The violation of any rule or regulation adopted pursuant to this Section, except for a violation of the provisions of this amendatory Act of the 92nd General Assembly and the rules and regulations adopted under those provisions, shall be a petty offense.

All rules and regulations enacted by resolution or ordinance under the provisions of this Section shall be enforced by such officer of the county as may be designated by resolution of the County Board.

No such resolution or ordinance shall be enforced if it is in conflict with any law of this State or with any rule of the Department of Public Health.

(Source: P.A. 92-489, eff. 7-1-02.)".

Under the rules, the foregoing **Senate Bill No. 1511**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1556

A bill for AN ACT concerning civil law.

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

House Amendment No. 1 to SENATE BILL NO. 1556

[May 28, 2009]

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1556

AMENDMENT NO. 1. Amend Senate Bill 1556, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Interscholastic Association Defamation Act.

Section 5. Definition. As used in this Act, "association" means the Illinois High School Association.

Section 10. Defamation. Any association which has as its purpose promoting, sponsoring, regulating, or in any manner providing for interscholastic athletics or any form of athletic competition among schools and students within this State is not liable for defamation, except for actual malice.

Section 98. Applicability. This Act applies only to causes of actions accruing on or after its effective date.

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

Under the rules, the foregoing **Senate Bill No. 1556**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1739

A bill for AN ACT concerning revenue.

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

House Amendment No. 1 to SENATE BILL NO. 1739

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1739

AMENDMENT NO. 1. Amend Senate Bill 1739 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 304 as follows:

(35 ILCS 5/304) (from Ch. 120, par. 3-304)

Sec. 304. Business income of persons other than residents.

(a) In general. The business income of a person other than a resident shall be allocated to this State if such person's business income is derived solely from this State. If a person other than a resident derives business income from this State and one or more other states, then, for tax years ending on or before December 30, 1998, and except as otherwise provided by this Section, such person's business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the sum of the property factor (if any), the payroll factor (if any) and 200% of the sales factor (if any), and the denominator of which is 4 reduced by the number of factors other than the sales factor which have a denominator of zero and by an additional 2 if the sales factor has a denominator of zero. For tax years ending on or after December 31, 1998, and except as otherwise provided by this Section, persons other than residents who derive business income from this State and one or more other states shall compute their apportionment factor by weighting their property, payroll, and sales factors as provided in subsection (h) of this Section.

(1) Property factor.

(A) The property factor is a fraction, the numerator of which is the average value of

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the person's real and tangible personal property owned or rented and used in the trade or business in this State during the taxable year and the denominator of which is the average value of all the person's real and tangible personal property owned or rented and used in the trade or business during the taxable year.

(B) Property owned by the person is valued at its original cost. Property rented by the person is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the person less any annual rental rate received by the person from sub-rentals.

(C) The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year but the Director may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the person's property.

(2) Payroll factor.

(A) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the taxable year by the person for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year.

(B) Compensation is paid in this State if:

(i) The individual's service is performed entirely within this State;

(ii) The individual's service is performed both within and without this State, but the service performed without this State is incidental to the individual's service performed within this State; or

(iii) Some of the service is performed within this State and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(iv) Compensation paid to nonresident professional athletes.

(a) General. The Illinois source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.

(b) Travel days. Travel days that do not involve either a game, practice, team meeting, or other similar team event are not considered duty days spent in this State. However, such travel days are considered in the total duty days spent both within and without this State.

(c) Definitions. For purposes of this subpart (iv):

(1) The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.

(2) The term "member of a professional athletic team" includes those employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.

(3) Except as provided in items (C) and (D) of this subpart (3), the term "duty days" means all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days shall be counted for the year in which they occur, including where a team's official pre-season training period through the last game in which the team competes or is scheduled to compete, occurs during more than one tax year.

(A) Duty days shall also include days on which a member of a professional athletic team performs service for a team on a date that does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional "caravans"). Performing a service for a professional athletic team includes conducting training and rehabilitation activities, when such activities are conducted at team facilities.

(B) Also included in duty days are game days, practice days, days spent at team meetings, promotional caravans, preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete.

(C) Duty days for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, shall begin on the day that

person joins the team. Conversely, duty days for any person who leaves a team during this period shall end on the day that person leaves the team. Where a person switches teams during a taxable year, a separate duty-day calculation shall be made for the period the person was with each team.

(D) Days for which a member of a professional athletic team is not compensated and is not performing services for the team in any manner, including days when such member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days.

(E) Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team, and is not otherwise performing services for the team in Illinois, shall not be considered duty days spent in this State. All days on the disabled list, however, are considered to be included in total duty days spent both within and without this State.

(4) The term "total compensation for services performed as a member of a professional athletic team" means the total compensation received during the taxable year for services performed:

(A) from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year; and

(B) during the taxable year on a date which does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional caravans).

This compensation shall include, but is not limited to, salaries, wages, bonuses as described in this subpart, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. This compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services performed for the team.

For purposes of this subparagraph, "bonuses" included in "total compensation for services performed as a member of a professional athletic team" subject to the allocation described in Section 302(c)(1) are: bonuses earned as a result of play (i.e., performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star league or other honorary positions; and bonuses paid for signing a contract, unless the payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team or even making the team, the signing bonus is payable separately from the salary and any other compensation, and the signing bonus is nonrefundable.

(3) Sales factor.

(A) The sales factor is a fraction, the numerator of which is the total sales of the person in this State during the taxable year, and the denominator of which is the total sales of the person everywhere during the taxable year.

(B) Sales of tangible personal property are in this State if:

(i) The property is delivered or shipped to a purchaser, other than the United States government, within this State regardless of the f. o. b. point or other conditions of the sale; or

(ii) The property is shipped from an office, store, warehouse, factory or other place of storage in this State and either the purchaser is the United States government or the person is not taxable in the state of the purchaser; provided, however, that premises owned or leased by a person who has independently contracted with the seller for the printing of newspapers, periodicals or books shall not be deemed to be an office, store, warehouse, factory or other place of storage for purposes of this Section. Sales of tangible personal property are not in this State if the seller and purchaser would be members of the same unitary business group but for the fact that either the seller or purchaser is a person with 80% or more of total business activity outside of the United States and the property is purchased for resale.

(B-1) Patents, copyrights, trademarks, and similar items of intangible personal property.

(i) Gross receipts from the licensing, sale, or other disposition of a patent, copyright, trademark, or similar item of intangible personal property, other than gross receipts governed by paragraph (B-7) of this item (3), are in this State to the extent the item is utilized in this State during the year the gross receipts are included in gross income.

(ii) Place of utilization.

(I) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If a patent is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts of the licensee or purchaser from sales or leases of items produced, fabricated, manufactured, or processed within that state using the patent and of patented items produced within that state, divided by the total of such gross receipts for all states in which the patent is utilized.

(II) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If a copyright is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts from sales or licenses of materials printed or published in that state divided by the total of such gross receipts for all states in which the copyright is utilized.

(III) Trademarks and other items of intangible personal property governed by this paragraph (B-1) are utilized in the state in which the commercial domicile of the licensee or purchaser is located.

(iii) If the state of utilization of an item of property governed by this paragraph (B-1) cannot be determined from the taxpayer's books and records or from the books and records of any person related to the taxpayer within the meaning of Section 267(b) of the Internal Revenue Code, 26 U.S.C. 267, the gross receipts attributable to that item shall be excluded from both the numerator and the denominator of the sales factor.

(B-2) Gross receipts from the license, sale, or other disposition of patents, copyrights, trademarks, and similar items of intangible personal property, other than gross receipts governed by paragraph (B-7) of this item (3), may be included in the numerator or denominator of the sales factor only if gross receipts from licenses, sales, or other disposition of such items comprise more than 50% of the taxpayer's total gross receipts included in gross income during the tax year and during each of the 2 immediately preceding tax years; provided that, when a taxpayer is a member of a unitary business group, such determination shall be made on the basis of the gross receipts of the entire unitary business group.

(B-5) For taxable years ending on or after December 31, 2008, except as provided in subsections (ii) through (vii), receipts from the sale of telecommunications service or mobile telecommunications service are in this State if the customer's service address is in this State.

(i) For purposes of this subparagraph (B-5), the following terms have the following meanings:

"Ancillary services" means services that are associated with or incidental to the provision of "telecommunications services", including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail services".

"Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

"Call-by-call Basis" means any method of charging for telecommunications services where the price is measured by individual calls.

"Communications Channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

"Conference bridging service" means an "ancillary service" that links two or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the "telecommunications services" used to reach the conference bridge.

"Customer Channel Termination Point" means the location where the customer either inputs or receives the communications.

"Detailed telecommunications billing service" means an "ancillary service" of separately stating information pertaining to individual calls on a customer's billing statement.

"Directory assistance" means an "ancillary service" of providing telephone number information, and/or address information.

"Home service provider" means the facilities based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

"Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

"Place of primary use" means the street address representative of where the

customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

"Post-paid telecommunication service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service.

"Prepaid telecommunication service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Prepaid Mobile telecommunication service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunication services, including but not limited to ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

"Service address" means:

(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(b) If the location in line (a) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider where the system used to transport such signals is not that of the seller; and

(c) If the locations in line (a) and line (b) are not known, the service address means the location of the customer's place of primary use.

"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications service" does not include:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including but not limited to directory advertising.

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 USC 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

(h) "Ancillary services"; or

- (i) Digital products "delivered electronically", including but not limited to software, music, video, reading materials or ring tones.

"Vertical service" means an "ancillary service" that is offered in connection with one or more "telecommunications services", which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including "conference bridging services".

"Voice mail service" means an "ancillary service" that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include any "vertical services" that the customer may be required to have in order to utilize the "voice mail service".

- (ii) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this State if either of the following applies:

- (a) The call both originates and terminates in this State.
- (b) The call either originates or terminates in this State and the service address is located in this State.

(iii) Receipts from the sale of postpaid telecommunications service at retail are in this State if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this State.

(iv) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service at retail are in this State if the purchaser obtains the prepaid card or similar means of conveyance at a location in this State. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this State if the purchaser's billing information indicates a location in this State.

- (v) Receipts from the sale of private communication services are in this State as follows:

- (a) 100% of receipts from charges imposed at each channel termination point in this State.
- (b) 100% of receipts from charges for the total channel mileage between each channel termination point in this State.
- (c) 50% of the total receipts from charges for service segments when those segments are between 2 customer channel termination points, 1 of which is located in this State and the other is located outside of this State, which segments are separately charged.
- (d) The receipts from charges for service segments with a channel termination point located in this State and in two or more other states, and which segments are not separately billed, are in this State based on a percentage determined by dividing the number of customer channel termination points in this State by the total number of customer channel termination points.

(vi) Receipts from charges for ancillary services for telecommunications service sold to customers at retail are in this State if the customer's primary place of use of telecommunications services associated with those ancillary services is in this State. If the seller of those ancillary services cannot determine where the associated telecommunications are located, then the ancillary services shall be based on the location of the purchaser.

- (vii) Receipts to access a carrier's network or from the sale of telecommunication services or ancillary services for resale are in this State as follows:

- (a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this State.
- (b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this State.

(c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this State. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunication services or from ancillary services for telecommunications services sold to other telecommunication service providers for resale shall be sourced to this State using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(B-7) For taxable years ending on or after December 31, 2008, receipts from the sale of broadcasting services are in this State if the broadcasting services are received in this State. For purposes of this paragraph (B-7), the following terms have the following meanings:

"Advertising revenue" means consideration received by the taxpayer in exchange for broadcasting services or allowing the broadcasting of commercials or announcements in connection with the broadcasting of film or radio programming, from sponsorships of the programming, or from product placements in the programming.

"Audience factor" means the ratio that the audience or subscribers located in this State of a station, a network, or a cable system bears to the total audience or total subscribers for that station, network, or cable system. The audience factor for film or radio programming shall be determined by reference to the books and records of the taxpayer or by reference to published rating statistics provided the method used by the taxpayer is consistently used from year to year for this purpose and fairly represents the taxpayer's activity in this State.

"Broadcast" or "broadcasting" or "broadcasting services" means the transmission or provision of film or radio programming, whether through the public airwaves, by cable, by direct or indirect satellite transmission, or by any other means of communication, either through a station, a network, or a cable system.

"Film" or "film programming" means the broadcast on television of any and all performances, events, or productions, including but not limited to news, sporting events, plays, stories, or other literary, commercial, educational, or artistic works, either live or through the use of video tape, disc, or any other type of format or medium. Each episode of a series of films produced for television shall constitute separate "film" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

"Radio" or "radio programming" means the broadcast on radio of any and all performances, events, or productions, including but not limited to news, sporting events, plays, stories, or other literary, commercial, educational, or artistic works, either live or through the use of an audio tape, disc, or any other format or medium. Each episode in a series of radio programming produced for radio broadcast shall constitute a separate "radio programming" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

(i) In the case of advertising revenue from broadcasting, the customer is the advertiser and the service is received in this State if the commercial domicile of the advertiser is in this State.

(ii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration received from the recipient of the broadcast, the portion of the service that is received in this State is measured by the portion of the recipients of the broadcast located in this State. Accordingly, the fee or other remuneration for such service that is included in the Illinois numerator of the sales factor is the total of those fees or other remuneration received from recipients in Illinois. For purposes of this paragraph, a taxpayer may determine the location of the recipients of its broadcast using the address of the recipient shown in its contracts with the recipient or using the billing address of the recipient in the taxpayer's records.

(iii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration from the person providing the programming, the portion of the broadcast service that is received by such station, network, or cable system in this State is measured by the portion of recipients of the broadcast located in this State. Accordingly, the amount of revenue related to such an arrangement that is included in the Illinois numerator of the sales factor is the total fee or other total remuneration from the person providing the programming related to that broadcast multiplied by the Illinois audience factor for that broadcast.

(iv) In the case where film or radio programming is provided by a taxpayer that is a network or station to a customer for broadcast in exchange for a fee or other remuneration from that customer the broadcasting service is received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. Accordingly, in such a case the revenue derived by the taxpayer that is included in the taxpayer's Illinois numerator of the sales factor is the revenue from such customers who receive the broadcasting service in Illinois.

(v) In the case where film or radio programming is provided by a taxpayer that is not a network or station to another person for broadcasting in exchange for a fee or other remuneration from that person, the broadcasting service is received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. Accordingly, in such a case the revenue derived by the taxpayer that is included in the taxpayer's Illinois numerator of the sales factor is the revenue from such customers who receive the broadcasting service in Illinois.

(C) For taxable years ending before December 31, 2008, sales, other than sales governed

by paragraphs (B), (B-1), and (B-2), are in this State if:

(i) The income-producing activity is performed in this State; or

(ii) The income-producing activity is performed both within and without this State and a greater proportion of the income-producing activity is performed within this State than without this State, based on performance costs.

(C-5) For taxable years ending on or after December 31, 2008, sales, other than sales governed by paragraphs (B), (B-1), (B-2), ~~and~~ (B-5) and (B-7), are in this State if any of the following criteria are met:

(i) Sales from the sale or lease of real property are in this State if the property is located in this State.

(ii) Sales from the lease or rental of tangible personal property are in this State if the property is located in this State during the rental period. Sales from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are in this State to the extent that the property is used in this State.

(iii) In the case of interest, net gains (but not less than zero) and other items of income from intangible personal property, the sale is in this State if:

(a) in the case of a taxpayer who is a dealer in the item of intangible personal property within the meaning of Section 475 of the Internal Revenue Code, the income or gain is received from a customer in this State. For purposes of this subparagraph, a customer is in this State if the customer is an individual, trust or estate who is a resident of this State and, for all other customers, if the customer's commercial domicile is in this State. Unless the dealer has actual knowledge of the residence or commercial domicile of a customer during a taxable year, the customer shall be deemed to be a customer in this State if the billing address of the customer, as shown in the records of the dealer, is in this State; or

(b) in all other cases, if the income-producing activity of the taxpayer is performed in this State or, if the income-producing activity of the taxpayer is performed both within and without this State, if a greater proportion of the income-producing activity of the taxpayer is performed within this State than in any other state, based on performance costs.

(iv) Sales of services are in this State if the services are received in this State.

For the purposes of this section, gross receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where that corporation, partnership, or trust has a fixed place of business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed. If the taxpayer is not taxable in the state in which the services are received, the sale must be excluded from both the numerator and the denominator of the sales factor. The Department shall adopt rules prescribing where specific types of service are received, including, but not limited to, ~~broadcast, cable, advertising,~~ publishing, and utility service.

(D) For taxable years ending on or after December 31, 1995, the following items of income shall not be included in the numerator or denominator of the sales factor: dividends; amounts included under Section 78 of the Internal Revenue Code; and Subpart F income as defined in Section 952 of the Internal Revenue Code. No inference shall be drawn from the enactment of this paragraph (D) in construing this Section for taxable years ending before December 31, 1995.

(E) Paragraphs (B-1) and (B-2) shall apply to tax years ending on or after December 31, 1999, provided that a taxpayer may elect to apply the provisions of these paragraphs to prior tax years. Such election shall be made in the form and manner prescribed by the Department, shall be irrevocable, and shall apply to all tax years; provided that, if a taxpayer's Illinois income tax liability for any tax year, as assessed under Section 903 prior to January 1, 1999, was computed in a manner contrary to the provisions of paragraphs (B-1) or (B-2), no refund shall be payable to the taxpayer for that tax year to the extent such refund is the result of applying the provisions of paragraph (B-1) or (B-2) retroactively. In the case of a unitary business group, such election shall apply to all members of such group for every tax year such group is in existence, but shall not apply to any taxpayer for any period during which that taxpayer is not a member of such group.

(b) Insurance companies.

(1) In general. Except as otherwise provided by paragraph (2), business income of an

insurance company for a taxable year shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance upon property or risk in this State, and the denominator of which is the direct premiums written for insurance upon property or risk everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Illinois Director of Insurance in the form approved by the National Convention of Insurance Commissioners or such other form as may be prescribed in lieu thereof.

(2) Reinsurance. If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the business income of such company shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the sum of (i) direct premiums written for insurance upon property or risk in this State, plus (ii) premiums written for reinsurance accepted in respect of property or risk in this State, and the denominator of which is the sum of (iii) direct premiums written for insurance upon property or risk everywhere, plus (iv) premiums written for reinsurance accepted in respect of property or risk everywhere. For taxable years ending before December 31, 2008, for purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risk in this State, whether or not otherwise determinable, may, at the election of the company, be determined on the basis of the proportion which premiums written for reinsurance accepted from companies commercially domiciled in Illinois bears to premiums written for reinsurance accepted from all sources, or, alternatively, in the proportion which the sum of the direct premiums written for insurance upon property or risk in this State by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

(c) Financial organizations.

(1) In general. For taxable years ending before December 31, 2008, business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For the purposes of this subsection, the business income of a financial organization from sources within this State is the sum of the amounts referred to in subparagraphs (A) through (E) following, but excluding the adjusted income of an international banking facility as determined in paragraph (2):

(A) Fees, commissions or other compensation for financial services rendered within this State;

(B) Gross profits from trading in stocks, bonds or other securities managed within this State;

(C) Dividends, and interest from Illinois customers, which are received within this State;

(D) Interest charged to customers at places of business maintained within this State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(E) Any other gross income resulting from the operation as a financial organization within this State. In computing the amounts referred to in paragraphs (A) through (E) of this subsection, any amount received by a member of an affiliated group (determined under Section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under Section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

(2) International Banking Facility. For taxable years ending before December 31, 2008:

(A) Adjusted Income. The adjusted income of an international banking facility is its income reduced by the amount of the floor amount.

(B) Floor Amount. The floor amount shall be the amount, if any, determined by multiplying the income of the international banking facility by a fraction, not greater than one, which is determined as follows:

(i) The numerator shall be:

The average aggregate, determined on a quarterly basis, of the financial organization's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, as reported for its branches, agencies and offices within the state on its "Consolidated Report of Condition", Schedule A, Lines 2.c., 5.b., and 7.a., which was filed with

the Federal Deposit Insurance Corporation and other regulatory authorities, for the year 1980, minus

The average aggregate, determined on a quarterly basis, of such loans (other than loans of an international banking facility), as reported by the financial institution for its branches, agencies and offices within the state, on the corresponding Schedule and lines of the Consolidated Report of Condition for the current taxable year, provided, however, that in no case shall the amount determined in this clause (the subtrahend) exceed the amount determined in the preceding clause (the minuend); and

(ii) the denominator shall be the average aggregate, determined on a quarterly basis, of the international banking facility's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, which were recorded in its financial accounts for the current taxable year.

(C) Change to Consolidated Report of Condition and in Qualification. In the event the Consolidated Report of Condition which is filed with the Federal Deposit Insurance Corporation and other regulatory authorities is altered so that the information required for determining the floor amount is not found on Schedule A, lines 2.c., 5.b. and 7.a., the financial institution shall notify the Department and the Department may, by regulations or otherwise, prescribe or authorize the use of an alternative source for such information. The financial institution shall also notify the Department should its international banking facility fail to qualify as such, in whole or in part, or should there be any amendment or change to the Consolidated Report of Condition, as originally filed, to the extent such amendment or change alters the information used in determining the floor amount.

(3) For taxable years ending on or after December 31, 2008, the business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its gross receipts from sources in this State or otherwise attributable to this State's marketplace and the denominator of which is its gross receipts everywhere during the taxable year. "Gross receipts" for purposes of this subparagraph (3) means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the financial organization's trade or business. The following examples are illustrative:

(i) Receipts from the lease or rental of real or tangible personal property are in this State if the property is located in this State during the rental period. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are from sources in this State to the extent that the property is used in this State.

(ii) Interest income, commissions, fees, gains on disposition, and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property are from sources in this State if the security is located in this State.

(iii) Interest income, commissions, fees, gains on disposition, and other receipts from consumer loans that are not secured by real or tangible personal property are from sources in this State if the debtor is a resident of this State.

(iv) Interest income, commissions, fees, gains on disposition, and other receipts from commercial loans and installment obligations that are not secured by real or tangible personal property are from sources in this State if the proceeds of the loan are to be applied in this State. If it cannot be determined where the funds are to be applied, the income and receipts are from sources in this State if the office of the borrower from which the loan was negotiated in the regular course of business is located in this State. If the location of this office cannot be determined, the income and receipts shall be excluded from the numerator and denominator of the sales factor.

(v) Interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in this State if the card charges are regularly billed to a customer in this State.

(vi) Receipts from the performance of services, including, but not limited to, fiduciary, advisory, and brokerage services, are in this State if the services are received in this State within the meaning of subparagraph (a)(3)(C-5)(iv) of this Section.

(vii) Receipts from the issuance of travelers checks and money orders are from sources in this State if the checks and money orders are issued from a location within this State.

(viii) Receipts from investment assets and activities and trading assets and activities are included in the receipts factor as follows:

(1) Interest, dividends, net gains (but not less than zero) and other income

from investment assets and activities from trading assets and activities shall be included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in subparagraphs (A) and (B) of this paragraph, the receipts factor shall include the amounts described in such subparagraphs.

(A) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(B) The receipts factor shall include the amount by which interest, dividends, gains and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(2) The numerator of the receipts factor includes interest, dividends, net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in paragraph (1) of this subsection that are attributable to this State.

(A) The amount of interest, dividends, net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this State and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (A) of paragraph (1) of this subsection from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such funds and such securities.

(C) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions (but excluding amounts described in subparagraphs (A) or (B) of this paragraph), attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (B) of paragraph (1) of this subsection by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

(D) Properly assigned, for purposes of this paragraph (2) of this subsection, means the investment or trading asset or activity is assigned to the fixed place of business with which it has a preponderance of substantive contacts. An investment or trading asset or activity assigned by the taxpayer to a fixed place of business without the State shall be presumed to have been properly assigned if:

(i) the taxpayer has assigned, in the regular course of its business, such asset or activity on its records to a fixed place of business consistent with federal or state regulatory requirements;

(ii) such assignment on its records is based upon substantive contacts of the asset or activity to such fixed place of business; and

(iii) the taxpayer uses such records reflecting assignment of such assets or activities for the filing of all state and local tax returns for which an assignment of such assets or activities to a fixed place of business is required.

(E) The presumption of proper assignment of an investment or trading asset or activity provided in subparagraph (D) of paragraph (2) of this subsection may be rebutted upon a showing by the Department, supported by a preponderance of the evidence, that the

preponderance of substantive contacts regarding such asset or activity did not occur at the fixed place of business to which it was assigned on the taxpayer's records. If the fixed place of business that has a preponderance of substantive contacts cannot be determined for an investment or trading asset or activity to which the presumption in subparagraph (D) of paragraph (2) of this subsection does not apply or with respect to which that presumption has been rebutted, that asset or activity is properly assigned to the state in which the taxpayer's commercial domicile is located. For purposes of this subparagraph (E), it shall be presumed, subject to rebuttal, that taxpayer's commercial domicile is in the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected with the management of the investment or trading income or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the taxable year.

(4) (Blank).

(5) (Blank).

(d) Transportation services. For taxable years ending before December 31, 2008, business income derived from furnishing transportation services shall be apportioned to this State in accordance with paragraphs (1) and (2):

(1) Such business income (other than that derived from transportation by pipeline)

shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For purposes of this paragraph, a revenue mile is the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. Where a person is engaged in the transportation of both passengers and freight, the fraction above referred to shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the person's

(A) relative railway operating income from total passenger and total freight service, as reported to the Interstate Commerce Commission, in the case of transportation by railroad, and

(B) relative gross receipts from passenger and freight transportation, in case of transportation other than by railroad.

(2) Such business income derived from transportation by pipeline shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For the purposes of this paragraph, a revenue mile is the transportation by pipeline of 1 barrel of oil, 1,000 cubic feet of gas, or of any specified quantity of any other substance, the distance of 1 mile for a consideration.

(3) For taxable years ending on or after December 31, 2008, business income derived from providing transportation services other than airline services shall be apportioned to this State by using a fraction, (a) the numerator of which shall be (i) all receipts from any movement or shipment of people, goods, mail, oil, gas, or any other substance (other than by airline) that both originates and terminates in this State, plus (ii) that portion of the person's gross receipts from movements or shipments of people, goods, mail, oil, gas, or any other substance (other than by airline) that originates in one state or jurisdiction and terminates in another state or jurisdiction, that is determined by the ratio that the miles traveled in this State bears to total miles everywhere and (b) the denominator of which shall be all revenue derived from the movement or shipment of people, goods, mail, oil, gas, or any other substance (other than by airline). Where a taxpayer is engaged in the transportation of both passengers and freight, the fraction above referred to shall first be determined separately for passenger miles and freight miles. Then an average of the passenger miles fraction and the freight miles fraction shall be weighted to reflect the taxpayer's:

(A) relative railway operating income from total passenger and total freight service, as reported to the Surface Transportation Board, in the case of transportation by railroad; and

(B) relative gross receipts from passenger and freight transportation, in case of transportation other than by railroad.

(4) For taxable years ending on or after December 31, 2008, business income derived from furnishing airline transportation services shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For purposes of this paragraph, a revenue mile is the transportation of one passenger or one net ton of freight the distance of one mile

for a consideration. If a person is engaged in the transportation of both passengers and freight, the fraction above referred to shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the person's relative gross receipts from passenger and freight airline transportation.

(e) Combined apportionment. Where 2 or more persons are engaged in a unitary business as described in subsection (a)(27) of Section 1501, a part of which is conducted in this State by one or more members of the group, the business income attributable to this State by any such member or members shall be apportioned by means of the combined apportionment method.

(f) Alternative allocation. If the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may, without a petition, permit or require, in respect of all or any part of the person's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

(g) Cross reference. For allocation of business income by residents, see Section 301(a).

(h) For tax years ending on or after December 31, 1998, the apportionment factor of persons who apportion their business income to this State under subsection (a) shall be equal to:

- (1) for tax years ending on or after December 31, 1998 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of the sales factor;
- (2) for tax years ending on or after December 31, 1999 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property factor plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of the sales factor;
- (3) for tax years ending on or after December 31, 2000, the sales factor.

If, in any tax year ending on or after December 31, 1998 and before December 31, 2000, the denominator of the payroll, property, or sales factor is zero, the apportionment factor computed in paragraph (1) or (2) of this subsection for that year shall be divided by an amount equal to 100% minus the percentage weight given to each factor whose denominator is equal to zero.

(Source: P.A. 94-247, eff. 1-1-06; 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

Section 10. The Property Tax Code is amended by changing Section 15-65 as follows:
(35 ILCS 200/15-65)

Sec. 15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, including organizations whose owner, and no other person, uses the property exclusively for the distribution, sale, or resale of donated goods and related activities and uses all the income from those activities to support the charitable, religious or beneficent activities of the owner, whether or not such activities occur on the property.
- (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if, upon making application for the exemption, the applicant provides affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code or its successor, and either: (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services, or (ii) the home or facility is qualified, built or financed under Section 202 of the National Housing Act of 1959, as amended.

An applicant that has been granted an exemption under this subsection on the basis that its bylaws provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services may be periodically reviewed by the Department to determine if the waiver or reduction was a past policy or is a current policy. The Department may revoke the exemption if it finds that the policy for waiver or reduction is no longer current.

If a not-for-profit organization leases property that is otherwise exempt under this subsection to an organization that conducts an activity on the leased premises that would entitle the

lessee to an exemption from real estate taxes if the lessee were the owner of the property, then the leased property is exempt.

(d) Not-for-profit health maintenance organizations certified by the Director of the Illinois Department of Insurance under the Health Maintenance Organization Act, including any health maintenance organization that provides services to members at prepaid rates approved by the Illinois Department of Insurance if the membership of the organization is sufficiently large or of indefinite classes so that the community is benefited by its operation. No exemption shall apply to any hospital or health maintenance organization which has been adjudicated by a court of competent jurisdiction to have denied admission to any person because of race, color, creed, sex or national origin.

(e) All free public libraries.

(f) Historical societies.

Property otherwise qualifying for an exemption under this Section shall not lose its exemption because the legal title is held (i) by an entity that is organized solely to hold that title and that qualifies under paragraph (2) of Section 501(c) of the Internal Revenue Code or its successor, whether or not that entity receives rent from the charitable organization for the repair and maintenance of the property, (ii) by an entity that is organized as a partnership or limited liability company, in which the charitable organization, or an affiliate or subsidiary of the charitable organization, is a general partner of the partnership or managing member of the limited liability company, for the purposes of owning and operating a residential rental property that has received an allocation of Low Income Housing Tax Credits for 100% of the dwelling units under Section 42 of the Internal Revenue Code of 1986, as amended, or (iii) for any assessment year including and subsequent to January 1, 1996 for which an application for exemption has been filed and a decision on which has not become final and nonappealable, by a limited liability company organized under the Limited Liability Company Act provided that (A) ~~the limited liability company receives a notification from the Internal Revenue Service that it qualifies under paragraph (2) or (3) of Section 501(c) of the Internal Revenue Code;~~ (B) the limited liability company's sole member or members, as that term is used in Section 1-5 of the Limited Liability Company Act, are the institutions of public charity that actually and exclusively use the property for charitable and beneficent purposes; (B) the limited liability company is a disregarded entity for federal and Illinois income tax purposes and, as a result, the limited liability company is deemed exempt from income tax liability by virtue of the Internal Revenue Code Section 501(c)(3) status of its sole member or members; and (C) the limited liability company does not lease the property or otherwise use it with a view to profit.

(Source: P.A. 91-416, eff. 8-6-99; 92-382, eff. 8-16-01.)

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

Under the rules, the foregoing **Senate Bill No. 1739**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1783

A bill for AN ACT concerning local government.

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

House Amendment No. 1 to SENATE BILL NO. 1783

House Amendment No. 3 to SENATE BILL NO. 1783

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1783

AMENDMENT NO. 1. Amend Senate Bill 1783 by replacing everything after the enacting clause with the following:

[May 28, 2009]

"Section 5. The Illinois Municipal Code is amended by adding Section 11-5.4-1 as follows:
(65 ILCS 5/11-5.4-1 new)

Sec. 11-5.4-1. Landlord regulation. The corporate authorities of any municipality may license and regulate landlords, as defined by the corporate authorities of the municipality, within that municipality. The authority to regulate landlords includes but is not limited to requiring landlords to make an addendum to any and all leases to include prohibitions of criminal activity.

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

AMENDMENT NO. 3 TO SENATE BILL 1783

AMENDMENT NO. 3. Amend Senate Bill 1783, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by adding Section 11-5.4-1 as follows:
(65 ILCS 5/11-5.4-1 new)

Sec. 11-5.4-1. Criminal activity prohibition in residential leases. The corporate authorities of any municipality may require that any lease entered into for single or multi-family residential property located in the municipality include a provision or an addendum that prohibits criminal activity and provides the landlord the right to terminate the lease for engaging in such activity.

For the purposes of this Section, "criminal activity" means, but is not limited to:

- (i) Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.
- (ii) Unlawful use of weapons as defined in Section 24-1 of the Criminal Code of 1961.
- (iii) Mob action as defined in Section 25-1 of the Criminal Code of 1961.
- (iv) Aggravated discharge of a firearm as defined in Sections 24-1.2 and 24-1.2-5 of the Criminal Code of 1961.
- (v) Gambling as defined in Section 28-1 of the Criminal Code of 1961.
- (vi) Possession, manufacture, or delivery of a controlled substance as defined in Section 401 of the Illinois Controlled Substances Act.
- (vii) Assault or battery or any related offense as defined in Article 12 of the Criminal Code of 1961.
- (viii) Criminal sexual abuse or related offenses as defined in Sections 12-15 and 12-16 of the Criminal Code of 1961.
- (ix) Public indecency as defined in Section 11-9 of the Criminal Code of 1961.
- (x) Prostitution as defined in Section 11-14 of the Criminal Code of 1961.
- (xi) Criminal damage to property as defined in Section 21-1 of the Criminal Code of 1961.
- (xii) Possession, cultivation, manufacture, or delivery of cannabis as defined in the Cannabis Control Act.
- (xiii) Illegal consumption or possession of alcohol as defined in the Liquor Control Act of 1934.
- (xiv) Violation of any municipal ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.

Section 10. The Code of Civil Procedure is amended by changing Section 9-120 as follows:
(735 ILCS 5/9-120)

Sec. 9-120. Leased premises used in furtherance of a criminal offense; lease void at option of lessor or assignee.

(a) If any lessee or occupant, on one or more occasions, uses or permits the use of leased premises for the commission of any act that would constitute a felony or a Class A misdemeanor under the laws of this State, the lease or rental agreement shall, at the option of the lessor or the lessor's assignee become void, and the owner or lessor shall be entitled to recover possession of the leased premises as against a tenant holding over after the expiration of his or her term.

(a-5) In all actions brought under this Section, no predicate notice of termination or demand for possession shall be required to initiate an eviction action. Notice specifying the alleged violations of the lease to be considered by the court shall be delivered to the lessee by sending a copy by certified mail and by posting the notice on the premise.

(b) The owner or lessor may bring a forcible entry and detainer action, or, if the State's Attorney of the county in which the real property is located agrees, assign to that State's Attorney the right to bring a forcible entry and detainer action on behalf of the owner or lessor, against the lessee and all occupants of the leased premises. The assignment must be in writing on a form prepared by the State's Attorney of the county in which the real property is located. If the owner or lessor assigns the right to bring a forcible entry and detainer action, the assignment shall be limited to those rights and duties up to and including

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delivery of the order of eviction to the sheriff for execution. The owner or lessor shall remain liable for the cost of the eviction whether or not the right to bring the forcible entry and detainer action has been assigned.

(c) A person does not forfeit any part of his or her security deposit due solely to an eviction under the provisions of this Section, except that a security deposit may be used to pay fees charged by the sheriff for carrying out an eviction.

(d) ~~If a lessor or the lessor's assignee voids a lease or contract under the provisions of this Section and the tenant or occupant has not vacated the premises within 5 days after receipt of a written notice to vacate the premises, the lessor or lessor's assignee may seek relief under this Article IX.~~ Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code, judgment for costs against a plaintiff seeking possession of the premises under this Section shall not be awarded to the defendant unless the action was brought by the plaintiff in bad faith. An action to possess premises under this Section shall not be deemed to be in bad faith when the plaintiff based his or her cause of action on information provided to him or her by a law enforcement agency or the State's Attorney.

(e) After a trial, if the court finds, by a preponderance of the evidence, that the allegations in the complaint have been proven or that a default has been proven in any other term of the lease, the court shall enter judgment for possession of the premises in favor of the plaintiff and the court shall order that the plaintiff shall be entitled to re-enter the premises immediately.

(f) A judgment for possession of the premises entered in an action brought by a lessor or lessor's assignee, if the action was brought as a result of a lessor or lessor's assignee declaring a lease void pursuant to this Section, may not be stayed for any period in excess of 7 days by the court unless all parties agree to a longer period. Thereafter the plaintiff shall be entitled to re-enter the premises immediately. The sheriff or other lawfully deputized officers shall execute an order entered pursuant to this Section within 7 days of its entry, or within 7 days of the expiration of a stay of judgment, if one is entered.

(g) Nothing in this Section shall limit the rights of an owner or lessor to bring a forcible entry and detainer action on the basis of other applicable law.

(Source: P.A. 90-360, eff. 1-1-98.)

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

Under the rules, the foregoing **Senate Bill No. 1783**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1906

A bill for AN ACT concerning State government.

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

House Amendment No. 3 to SENATE BILL NO. 1906

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 3 TO SENATE BILL 1906

AMENDMENT NO. 3. Amend Senate Bill 1906, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Finance Authority Act is amended by changing Sections 825-65, 825-70, 825-75, and 830-25 as follows:

(20 ILCS 3501/825-65)

Sec. 825-65. Clean Coal, Coal, and Renewable Energy Project Financing.

(a) Findings and declaration of policy.

(i) It is hereby found and declared that Illinois has abundant coal resources and, in some areas of Illinois, the demand for power exceeds the generating capacity. Incentives to encourage the

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construction of ~~coal-fueled coal-fired~~ electric generating plants in Illinois to ensure power generating capacity into the future and to advance clean coal technology and the use of Illinois coal are in the best interests of all of the citizens of Illinois.

(ii) It is further found and declared that Illinois has abundant potential and resources to develop renewable energy resource projects. The development of those projects will create jobs and investment as well as decrease environmental impacts and promote energy independence in Illinois. Accordingly, the development of those projects is in the best interests of all of the citizens of Illinois.

(iii) The Authority is authorized to issue bonds to help finance Clean Coal, Coal, and Renewable Energy

projects pursuant to this Section.

(b) Definitions. Definition.

(i) "Clean Coal Project and Energy projects" means (A) "clean coal facility", as defined in Section 1-10 of the Illinois Power Agency Act; (B) "clean coal SNG facility", as defined in Section 1-10 of the Illinois Power Agency Act; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); (D) pipelines or other methods to transfer carbon dioxide from the point of production to the point of storage or sequestration for projects described in this subsection (b); or (E) projects to provide carbon abatement technology for existing generating facilities.

(ii) "Coal Project" means new electric generating facilities or new gasification facilities, as defined in

in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, which may include mine-mouth power plants, projects that employ the use of clean coal technology, projects to provide scrubber technology for existing energy generating plants, or projects to provide electric transmission facilities or new gasification facilities.

(iii) "Renewable Energy Project" means (A) a project that uses renewable energy resources, as defined in Section 1-10 of the Illinois Power Agency Act; (B) a project that uses environmentally preferable technologies and practices that result in improvements to the production of renewable fuels, including but not limited to, cellulosic conversion, water and energy conservation, fractionation, alternative feedstocks, or reduced green house gas emissions; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); or (D) projects that use technology for the storage of renewable energy, including, without limitation, the use of battery or electrochemical storage technology for mobile or stationary applications.

(c) Creation of reserve funds. The Authority may establish and maintain one or more reserve funds to enhance bonds issued by the Authority for a Clean Coal Project, a Coal Project, or a Renewable and Energy Project projects. There may be one or more accounts in these reserve funds in which there may be deposited:

(1) any proceeds of the bonds issued by the Authority required to be deposited therein by the terms of any contract between the Authority and its bondholders or any resolution of the Authority;

(2) any other moneys or funds of the Authority that it may determine to deposit therein from any other source; and

(3) any other moneys or funds made available to the Authority. Subject to the terms of any pledge to the owners of any bonds, moneys in any reserve fund may be held and applied to the payment of principal, premium, if any, and interest of such bonds.

(d) Powers and duties. The Authority has the power:

(1) To issue bonds in one or more series pursuant to one or more resolutions of the Authority for any Clean Coal Project, Coal Project, or Renewable and Energy Project projects authorized under this Section, within the authorization set forth in subsection subsections (e) and (f).

(2) To provide for the funding of any reserves or other funds or accounts deemed necessary by the Authority in connection with any bonds issued by the Authority.

(3) To pledge any funds of the Authority or funds made available to the Authority that may be applied to such purpose as security for any bonds or any guarantees, letters of credit, insurance contracts or similar credit support or liquidity instruments securing the bonds.

(4) To enter into agreements or contracts with third parties, whether public or private, including, without limitation, the United States of America, the State or any department or agency thereof, to obtain any appropriations, grants, loans or guarantees that are deemed necessary or desirable by the Authority. Any such guarantee, agreement or contract may contain terms and provisions necessary or desirable in connection with the program, subject to the requirements

established by the Act.

(5) To exercise such other powers as are necessary or incidental to the foregoing.

(e) Clean Coal ~~Project, Coal Project, and Renewable Energy Project~~ bond authorization and financing limits. In addition to any other bonds authorized to be issued under Sections 801-40(w), 825-60, 830-25 and 845-5, the Authority may have outstanding, at any time, bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed \$3,000,000,000 ~~\$2,700,000,000~~, subject to the following limitations: (i) up to of which no more than \$300,000,000 may be issued to finance projects, as described in clause (C) of subsection (b)(i) and clause (C) of subsection (b)(iii) of this Section 825-65; (ii) up to transmission facilities, no more than \$500,000,000 may be issued to finance projects, as described in clauses (D) and (E) of subsection (b)(i) of this Section 825-65; (iii) up to \$2,000,000,000 scrubbers at existing generating plants, no more than \$500,000,000 may be issued to finance Clean Coal Projects, as described in clauses (A) and (B) of subsection (b)(i) of this Section 825-65 and Coal Projects, as described in subsection (b)(ii) of this Section 825-65; and (iv) up to \$2,000,000,000 may be issued to finance Renewable Energy Projects, as described in clauses (A), (B), and (D) of subsection (b)(iii) of this Section 825-65 alternative energy sources, including renewable energy projects and no more than \$1,400,000,000 may be issued to finance new electric generating facilities or new gasification facilities, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. An application for a loan financed from bond proceeds from a borrower or its affiliates for a Clean Coal ~~Project, a Coal Project, or a Renewable and Energy Project~~ project may not be approved by the Authority for an amount in excess of \$450,000,000 for any borrower or its affiliates. These bonds shall not constitute an indebtedness or obligation of the State of Illinois and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness or obligation of the State of Illinois, but is payable solely from the revenues, income or other assets of the Authority pledged therefor.

(f) ~~The bonding authority granted under this Section is in addition to and not limited by the provisions of Section 845-5. Additional Clean Coal and Energy bond authorization and financing limits. In addition to any other bonds authorized to be issued under this Act, the Authority may issue bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed \$300,000,000.~~ (Source: P.A. 95-470, eff. 8-27-07.)

(20 ILCS 3501/825-70)

Sec. 825-70. Criteria for participation in the program. Applications to the Authority for financing of any Clean Coal, ~~Coal, or Renewable and Energy Project~~ project shall be reviewed by the Authority. Upon submission of any such application, the Authority staff shall review the application for its completeness and may, at the discretion of the Authority staff, request such additional information as it deems necessary or advisable to aid in review. If the Authority receives applications for financing for Clean Coal, ~~Coal, or and Renewable Energy Projects~~ projects in excess of the bond authorization available for such financing at any one time, it shall consider applications in the order of priority as it shall determine, in consultation with other State agencies, ~~and consistent with State policy to promote environmentally preferable technology and energy independence.~~

(Source: P.A. 93-205, eff. 1-1-04.)

(20 ILCS 3501/825-75)

Sec. 825-75. Additional Security. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on any bonds issued by the Authority under Sections 825-65 through 825-75 of this Act for Clean Coal Projects, Coal Projects, or Renewable Energy Projects ~~new electric generating facilities or new gasification facilities~~ during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal, premium, if any, and interest on such bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact should also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal, premium, if any, and interest on such bonds, the Chairman of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section.

(Source: P.A. 95-470, eff. 8-27-07.)
(20 ILCS 3501/830-25)

Sec. 830-25. Bonded indebtedness limitation. The Authority shall not have outstanding at any one time State Guarantees under Section 830-30 in an aggregate principal amount exceeding \$160,000,000. The Authority shall not have outstanding at any one time State Guarantees under Sections 830-35, 830-45 and 830-50 in an aggregate principal amount exceeding \$225,000,000 ~~\$75,000,000~~. The Guarantees in this Section may be used to support Renewable Energy Projects as described in clauses (A) and (B) of subsection (b)(iii) of Section 825-65 of this Act.
(Source: P.A. 93-205, eff. 1-1-04.)".

Under the rules, the foregoing **Senate Bill No. 1906**, with House Amendment No. 3, was referred to the Secretary's Desk.

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

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

SENATE BILL NO. 1918

A bill for AN ACT concerning regulation.

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

House Amendment No. 1 to SENATE BILL NO. 1918

House Amendment No. 2 to SENATE BILL NO. 1918

House Amendment No. 3 to SENATE BILL NO. 1918

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1918

AMENDMENT NO. 1. Amend Senate Bill 1918 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 1-101 as follows:
(220 ILCS 5/1-101) (from Ch. 111 2/3, par. 1-101)

Sec. 1-101. Short title. This Act may be cited as the ~~the~~ Public Utilities Act.

(Source: P.A. 86-1475.)".

AMENDMENT NO. 2 TO SENATE BILL 1918

AMENDMENT NO. 2. Amend Senate Bill 1918, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by changing Section 1-10 as follows:
(20 ILCS 3855/1-10)

(Text of Section before amendment by P.A. 95-1027)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property and improvements in connection therewith and equipment and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness

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of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, trees and tree trimmings, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than trees and tree trimmings, railroad cross-ties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an

electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases. (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

(Text of Section after amendment by P.A. 95-1027)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027) ~~this amendatory Act of the 95th General Assembly.~~

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon emissions that the facility would otherwise emit and that uses coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property and improvements in connection therewith and equipment and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or

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collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, trees and tree trimmings, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than trees and tree trimmings, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome.

"Servicing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, and (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; revised 1-14-09.)

Section 10. The Public Utilities Act is amended by changing Sections 2-103, 8-103, 9-201, 10-102, 10-103, 10-110, 10-111, 10-201 by adding Sections 8-104, 8-105, 9-229, 16-111.7, 16-111.8, 16-115D, 19-140, and 19-145 as follows:

(220 ILCS 5/2-103) (from Ch. 111 2/3, par. 2-103)

Sec. 2-103. (a) No former member of the Commission or person formerly employed by the Commission may ~~for a period of one year following the termination of his services with the~~

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~~Commission, represent any person before the Commission in any a professional capacity with respect to any particular Commission proceeding matter in which he participated personally and substantially as a member or employee of the Commission.~~

~~(b) No former member of the Commission may appear before the Commission act as agent or attorney for any one other than the State of Illinois in connection with any particular Commission proceeding for a period of 2 years following the termination of service with the Commission matter in which he participated personally and substantially as a member of the Commission, through decision, approval, disapproval, recommendation, the rendering of service, investigation, or otherwise.~~

~~(c) No former member of the Commission may accept any employment with any entity public utility subject to Commission regulation regulations or certification, or with any industry trade association that (i) receives a majority of its funding from entities regulated or certificated by the Commission; or (ii) has a majority of members regulated or certificated by the Commission, for one year following the termination of his services with the Commission ; provided such prohibition shall extend to 2 years for commissioners appointed subsequent to the effective date of this amendatory Act of the 96th General Assembly.~~

~~(d) No entity public utility subject to Commission regulation or certification or any industry trade association that (i) receives a majority of its funding from entities regulated or certificated by the Commission; or (ii) has a majority of members regulated or certificated by the Commission shall offer a former member of the Commission employment for a period of one year following the termination of the former Commission member's service with the Commission, or otherwise hire such person as an agent, consultant, or attorney where such employment or contractual relation would be in violation of this Section; provided such prohibition on offers of employment shall extend to 2 years for those commissioners appointed subsequent to the effective date of this amendatory Act of the 96th General Assembly.~~

(Source: P.A. 84-617.)

(220 ILCS 5/8-103)

Sec. 8-103. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test. The low-income measures described in subsection (f)(4) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" shall have the meanings set forth in the Illinois Power Agency Act. For purposes of this Section, the amount per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this Section, the total amount paid for electric service includes without limitation estimated amounts paid for supply, transmission, distribution, surcharges, and add-on-taxes.

(b) Electric utilities shall implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals:

- (1) 0.2% of energy delivered in the year commencing June 1, 2008;
- (2) 0.4% of energy delivered in the year commencing June 1, 2009;
- (3) 0.6% of energy delivered in the year commencing June 1, 2010;
- (4) 0.8% of energy delivered in the year commencing June 1, 2011;
- (5) 1% of energy delivered in the year commencing June 1, 2012;
- (6) 1.4% of energy delivered in the year commencing June 1, 2013;
- (7) 1.8% of energy delivered in the year commencing June 1, 2014; and
- (8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

(c) Electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act. This requirement commences June 1, 2008 and continues for 10 years.

(d) Notwithstanding the requirements of subsections (b) and (c) of this Section, an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented in any single year by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:

- (1) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers

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during the year ending May 31, 2007;

(2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(4) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(5) thereafter, the amount of energy efficiency and demand-response measures implemented for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these measures included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these measures in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of energy efficiency and demand-response measures implemented pursuant to this Section and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of energy efficiency and demand-response measures.

(e) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency and demand-response plans with the Commission. Electric utilities shall implement 100% of the demand-response measures in the plans. Electric utilities shall implement 75% of the energy efficiency measures approved by the Commission, and may, as part of that implementation, outsource various aspects of program development and implementation. The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed grants or contracts for energy efficiency measures and provided supporting documentation for those grants and the contracts to the utility.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency and demand-response measures that the utility implements.

A utility providing approved energy efficiency and demand-response measures in the State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's implementation of energy efficiency and demand-response measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department.

The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the utility or Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than November 15, 2007, each electric utility shall file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2008 through 2010. Every 3 years thereafter, each electric utility shall file, no later than October 1, an energy efficiency and demand-response plan with the Commission. If a utility does not file such a plan by October 1 of an applicable year, it shall face a penalty of \$100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (b) and the demand-response standards identified in subsection (c) of this Section as modified by subsections (d) and (e), taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 3 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of \$100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund. In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:

- (1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
- (2) Present specific proposals to implement new building and appliance standards that have been placed into effect.
- (3) Present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
- (4) Coordinate with the Department ~~and the Department of Healthcare and Family Services~~ to present a portfolio of energy efficiency measures targeted to households at or below 150% of the poverty level at a level proportionate to those households' share of total annual utility revenues in Illinois.
- (5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.
- (6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.
- (7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.
- (g) No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.
- (h) This Section does not apply to an electric utility that on December 31, 2005 provided electric

service to fewer than 100,000 customers in Illinois.

(i) If, after 2 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. If, after 3 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. In addition, the responsibility for implementing the energy efficiency measures of the utility making the payment shall be transferred to the Illinois Power Agency if, after 3 years, or in any subsequent 3-year period, the utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e). The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section as modified by subsections (d) and (e), with costs for those resources to be recovered in the same manner as products purchased through the procurement plan as provided in Section 16-111.5. The Director shall implement this requirement in connection with the procurement plan as provided in Section 16-111.5.

For purposes of this Section, (i) a "large electric utility" is an electric utility that, on December 31, 2005, served more than 2,000,000 electric customers in Illinois; (ii) a "medium electric utility" is an electric utility that, on December 31, 2005, served 2,000,000 or fewer but more than 100,000 electric customers in Illinois; and (iii) Illinois electric utilities that are affiliated by virtue of a common parent company are considered a single electric utility.

(j) If, after 3 years, or any subsequent 3-year period, the Department fails to implement the Department's share of energy efficiency measures required by the standards in subsection (b), then the Illinois Power Agency may assume responsibility for and control of the Department's share of the required energy efficiency measures. The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section, with the costs of these resources to be recovered in the same manner as provided for the Department in this Section.

(k) No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department or the Agency.

(Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

(220 ILCS 5/8-104 new)

Sec. 8-104. Natural gas energy efficiency programs.

(a) It is the policy of the State that natural gas utilities and the Department of Commerce and Economic Opportunity are required to use cost-effective energy efficiency to reduce direct and indirect costs to consumers. It serves the public interest to allow natural gas utilities to recover costs for reasonably and prudently incurred expenses for cost-effective energy efficiency measures.

(b) For purposes of this Section, "energy efficiency" means measures that reduce the amount of energy required to achieve a given end use and "cost-effective" means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to the sum of all incremental costs of end use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. The low-income programs described in item (4) of subsection (f) of this Section shall not be required to meet the total resource cost test.

(c) Natural gas utilities shall implement cost-effective energy efficiency measures to meet at least the following natural gas savings requirements, which shall be based upon the total amount of gas delivered to retail customers, other than the customers described in subsection (m) of this Section, during calendar year 2009 multiplied by the applicable percentage. Natural gas utilities may comply with this Section by meeting the annual incremental savings goal in the applicable year or by showing that total savings associated with measures implemented after May 31, 2011 were equal to the sum of each annual incremental savings requirement from May 31, 2011 through the end of the applicable year.

- (1) 0.2% by May 31, 2012;
- (2) an additional 0.4% by May 31, 2013, increasing total savings to .6%;
- (3) an additional 0.6% by May 31, 2014, increasing total savings to 1.2%;
- (4) an additional 0.8% by May 31, 2015, increasing total savings to 2.0%;
- (5) an additional 1% by May 31, 2016, increasing total savings to 3.0%;
- (6) an additional 1.2% by May 31, 2017, increasing total savings to 4.2%;
- (7) an additional 1.4% by May 31, 2018, increasing total savings to 5.6%;
- (8) an additional 1.5% by May 31, 2019, increasing total savings to 7.1%; and
- (9) an additional 1.5% in each 12 month period thereafter.

(d) Notwithstanding the requirements of subsection (c) of this Section, a natural gas utility shall limit the amount of energy efficiency implemented in any 3-year reporting period established by subsection (f) of Section 8-104 of this Act, by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. The energy savings requirements in subsection (c) of this Section may be reduced by the Commission for the subject plan, if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period. No later than September 1, 2013, the Commission shall review the limitation on the amount of energy efficiency measures implemented pursuant to this Section and report to the General Assembly, in the report required by subsection (k) of this Section, its findings as to whether that limitation unduly constrains the procurement of energy efficiency measures.

(e) Natural gas utilities shall be responsible for overseeing the design, development, and filing of their efficiency plans with the Commission. The utility shall utilize 75% of the available funding associated with energy efficiency programs approved by the Commission, and may outsource various aspects of program development and implementation. The remaining 25% of available funding shall be used by the Department of Commerce and Economic Opportunity to implement energy efficiency measures that achieve no less than 20% of the requirements of subsection (c) of this section. Such measures shall be designed in conjunction with the utility and approved by the Commission. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from local government, municipal corporations, school districts, and community college districts. Five percent of the entire portfolio of cost-effective energy efficiency measures may be granted to local government and municipal corporations for market transformation initiatives. The Department shall coordinate the implementation of these measures and shall integrate delivery of natural gas efficiency programs with electric efficiency programs delivered pursuant to Section 8-103 of this Act, unless the Department can show that integration is not feasible.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed grants or contracts for energy efficiency measures and provided supporting documentation for those grants and the contracts to the utility.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency measures that the utility implements.

A utility providing approved energy efficiency measures in this State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case and shall be applicable to the utility's customers other than the customers described in subsection (m) of this section. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's implementation of energy efficiency measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department.

The portfolio of measures, administered by both the utilities and the Department, shall, in

combination, be designed to achieve the annual energy savings requirements set forth in subsection (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet performance requirements for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (8) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than October 1, 2010, each gas utility shall file an energy efficiency plan with the Commission to meet the energy efficiency standards through May 31, 2014. Every 3 years thereafter, each utility shall file, no later than October 1, an energy efficiency plan with the Commission. If a utility does not file such a plan by October 1 of the applicable year, then it shall face a penalty of \$100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (c) of this Section, as modified by subsection (d) of this Section, taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days after the disapproval, the utility shall be subject to penalties at a rate of \$100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency measures. Penalties shall be deposited into the Energy Efficiency Trust Fund and the cost of any such penalties may not be recovered from ratepayers. In submitting proposed energy efficiency plans and funding levels to meet the savings goals adopted by this Act the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

(2) Present specific proposals to implement new building and appliance standards that have been placed into effect.

(3) Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

(4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. Such programs shall be targeted to households with incomes at or below 80% of area median income.

(5) Demonstrate that its overall portfolio of energy efficiency measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross section of opportunities for customers of all rate classes to participate in the programs.

(6) Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate.

(7) Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission approved programs.

(8) Provide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a

full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period.

(g) No more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of breakthrough equipment and devices.

(h) Illinois natural gas utilities that are affiliated by virtue of a common parent company may, at the utilities' request, be considered a single natural gas utility for purposes of complying with this Section.

(i) If, after 3 years, a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section as modified by subsection (d), then it shall make a contribution to the Low-Income Home Energy Assistance Program. The total liability for failure to meet the goal shall be assessed as follows:

(1) a large gas utility shall pay \$600,000;

(2) a medium gas utility shall pay \$400,000; and

(3) a small gas utility shall pay \$200,000.

For purposes of this Section, (i) a "large gas utility" is a gas utility that on December 31, 2008, served more than 1,500,000 gas customers in Illinois; (ii) a "medium gas utility" is a gas utility that on December 31, 2008, served fewer than 1,500,000, but more than 500,000 gas customers in Illinois; and (iii) a "small gas utility" is a gas utility that on December 31, 2008, served fewer than 500,000 and more than 100,000 gas customers in Illinois. The costs of this contribution may not be recovered from ratepayers.

If a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, in any 2 consecutive 3-year planning periods, then the responsibility for implementing the utility's energy efficiency measures shall be transferred to an independent program administrator selected by the Commission. Reasonable and prudent costs incurred by the independent program administrator to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, may be recovered from the customers of the affected gas utilities, other than customers described in subsection (m) of this Section. The utility shall provide the independent program administrator with all information and assistance necessary to perform the program administrator's duties including but not limited to customer, account, and energy usage data, and shall allow the program administrator to include inserts in customer bills. The utility may recover reasonable costs associated with any such assistance.

(j) No utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department.

(k) Not later than January 1, 2012, the Commission shall develop and solicit public comment on a plan to foster statewide coordination and consistency between statutorily-mandated natural gas and electric energy efficiency programs to reduce program or participant costs or to improve program performance. Not later than September 1, 2013, the Commission shall issue a report to the General Assembly containing its findings and recommendations.

(l) This Section does not apply to a gas utility that on January 1, 2009, provided gas service to fewer than 100,000 customers in Illinois.

(m) Subsections (a) through (k) of this Section do not apply to customers of a natural gas utility that have a North American Industry Classification System Classification code number beginning with the digits 31, 32, or 33 and (i) annual usage in the aggregate of 4 million therms or more within the service territory of the affected gas utility or with aggregate usage of 8 million therms or more in this State and complying with the provisions of item (l) of this subsection (m); or (ii) using natural gas as feedstock and meeting the usage requirements described in item (i) of this subsection (m), to the extent such annual feedstock usage is greater than 60% of the customer's total annual usage of natural gas.

(1) Customers described in this subsection (m) of this Section shall apply, on a form approved on or before October 1, 2009 by the Department, to the Department to be designated as a self-directing customer ("SDC") or as an exempt customer using natural gas as a feedstock from which other products are made, including, but not limited to, feedstock for a hydrogen plant, on or before the 1st day of February, 2010. Thereafter, application may be made not less than 6 months before the filing date of the gas utility energy efficiency plan described in subsection (f) of this Section; however, a new customer that commences taking service from a natural gas utility after February 1, 2010 may apply to become a SDC or exempt customer up to 30 days after beginning service. Such application shall contain the following:

(A) the customer's certification that, at the time of its application, it qualifies to be a SDC or exempt customer described in this subsection (m) of this Section;

(B) in the case of a SDC, the customer's certification that it has established or will establish by

the beginning of the utility's 3-year planning period commencing subsequent to the application, and will maintain for accounting purposes, an energy efficiency reserve account and that the customer will accrue funds in said account to be held for the purpose of funding, in whole or in part, energy efficiency measures of the customer's choosing, which may include, but are not limited to, projects involving combined heat and power systems that use the same energy source both for the generation of electrical or mechanical power and the production of steam or another form of useful thermal energy or the use of combustible gas produced from biomass, or both;

(C) in the case of a SDC, the customer's certification that annual funding levels for the energy efficiency reserve account will be equal to 2% of the customer's cost of natural gas, composed of the customer's commodity cost and the delivery service charges paid to the gas utility, or \$150,000, whichever is less;

(D) in the case of a SDC, the customer's certification that the required reserve account balance will be capped at 3 years worth of accruals and that the customer may, at its option, make further deposits to the account to the extent such deposit would increase the reserve account balance above the designated cap level;

(E) in the case of a SDC, the customer's certification that by October 1 of each year, beginning no sooner than October 1, 2012, the customer will report to the Department information, for the 12-month period ending May 31 of the same year, on all deposits and reductions, if any, to the reserve account during the reporting year, and to the extent deposits to the reserve account in any year are in an amount less than \$150,000, the basis for such reduced deposits; reserve account balances by month; a description of energy efficiency measures undertaken by the customer and paid for in whole or in part with funds from the reserve account; an estimate of the energy saved, or to be saved, by the measure; and that the report shall include a verification by an officer or plant manager of the customer or by a registered professional engineer or certified energy efficiency trade professional that the funds withdrawn from the reserve account were used for the energy efficiency measures;

(F) in the case of an exempt customer, the customer's certification of the level of gas usage as feedstock in the customer's operation in a typical year and that it will provide information establishing this level, upon request of the Department;

(G) in the case of either an exempt customer or a SDC, the customer's certification that it has provided the gas utility or utilities serving the customer with a copy of the application as filed with the Department;

(H) in the case of either an exempt customer or a SDC, certification of the natural gas utility or utilities serving the customer in Illinois including the natural gas utility accounts that are the subject of the application; and

(I) in the case of either an exempt customer or a SDC, a verification signed by a plant manager or an authorized corporate officer attesting to the truthfulness and accuracy of the information contained in the application.

(2) The Department shall review the application to determine that it contains the information described in provisions (A) through (I) of item (1) of this subsection (m), as applicable. The review shall be completed within 30 days after the date the application is filed with the Department. Absent a determination by the Department within the 30-day period, the applicant shall be considered to be a SDC or exempt customer, as applicable, for all subsequent 3-year planning periods, as of the date of filing the application described in this subsection (m). If the Department determines that the application does not contain the applicable information described in provisions (A) through (I) of item (1) of this subsection (m), it shall notify the customer, in writing, of its determination that the application does not contain the required information and identify the information that is missing, and the customer shall provide the missing information within 15 working days after the date of receipt of the Department's notification.

(3) The Department shall have the right to audit the information provided in the customer's application and annual reports to ensure continued compliance with the requirements of this subsection. Based on the audit, if the Department determines the customer is no longer in compliance with the requirements of items (A) through (I) of item (1) of this subsection (m), as applicable, the Department shall notify the customer in writing of the noncompliance. The Customer shall have 30 days to establish its compliance, and failing to do so, may have its status as a SDC or exempt customer revoked by the Department. The Department shall treat all information provided by any customer seeking SDC status or exemption from the provisions of this Section as strictly confidential.

(4) Upon request, or on its own motion, the Commission may open an investigation, no more than once every 3 years and not before October 1, 2014, to evaluate the effectiveness of the self-directing program described in this subsection (m).

(n) The applicability of this Section to customers described in subsection (m) of this Section is

conditioned on the existence of the SDC program. In no event will any provision of this Section apply to such customers after January 1, 2020.

(220 ILCS 5/8-105 new)

Sec. 8-105. Financial assistance; electric and gas utilities.

(a) Notwithstanding any other provision of this Act, an electric or gas utility serving more than 100,000 retail customers as of January 1, 2009, shall offer programs in 2010 and 2011 that are authorized under Section 16-111.5A of this Act or approved by the Commission specifically designed to provide bill payment assistance to customers in need. These programs shall include a percentage of income payment plan. After receiving a request from a utility for the approval of a proposed plan pursuant to this Section, the Commission shall render its decision within 120 days. If no decision is rendered within 120 days, then the request shall be deemed to be approved.

(b) The costs of any program offered by a gas utility in 2010 or 2011 and by an electric utility in 2011 under this Section, excluding utility information technology costs, shall be reimbursed from the Supplemental Low-Income Energy Assistance Fund established in Section 13 of the Energy Assistance Act. The utility shall submit a bill to the Department of Commerce and Economic Opportunity which shall be promptly paid out of such funds or may net such costs against monies it would otherwise remit to the Fund. In furtherance of these programs, the utilities have committed to make a contribution to the Fund, as described in subsection (b) of Section 13 of the Energy Assistance Act. The utility shall provide a report to the Commission on a quarterly basis accounting for monies reimbursed or netted through the Fund. Nothing in this Section shall preclude a utility from recovering prudently incurred information technology costs associated with these programs in rates.

(c) This Section is repealed on December 31, 2011.

(220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

Sec. 9-201. (a) Unless the Commission otherwise orders, and except as otherwise provided in this Section, no change shall be made by any public utility in any rate or other charge or classification, or in any rule, regulation, practice or contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, except after 45 days' notice to the Commission and to the public as herein provided. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules or supplements stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect, and by publication in a newspaper of general circulation or such other notice to persons affected by such change as may be prescribed by rule of the Commission. The Commission, for good cause shown, may allow changes without requiring the 45 days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

When any change is proposed in any rate or other charge, or classification, or in any rule, regulation, practice, or contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, such proposed change shall be plainly indicated on the new schedule filed with the Commission, by some character to be designated by the Commission, immediately preceding or following the item.

When any public utility providing water or sewer service proposes any change in any rate or other charge, or classification, or in any rule, regulation, practice, or contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, such utility shall, in addition to the other notice requirements of this Act, provide notice of such change to all customers potentially affected by including a notice and description of such change, and of Commission procedures for intervention, in the first bill sent to each such customer after the filing of the proposed change.

(b) Whenever there shall be filed with the Commission any schedule stating an individual or joint rate or other charge, classification, contract, practice, rule or regulation, the Commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate or other charge, classification, contract, practice, rule or regulation, and pending the hearing and decision thereon, such rate or other charge, classification, contract, practice, rule or regulation shall not go into effect. The period of suspension of such rate or other charge, classification, contract, practice, rule or regulation shall not extend more than 105 days beyond the time when such rate or other charge, classification, contract, practice, rule or regulation would otherwise go into effect unless the Commission, in its discretion, extends the period of suspension for a further period not exceeding 6 months.

All rates or other charges, classifications, contracts, practices, rules or regulations not so suspended

[May 28, 2009]

shall, on the expiration of 45 days from the time of filing the same with the Commission, or of such lesser time as the Commission may grant, go into effect and be the established and effective rates or other charges, classifications, contracts, practices, rules and regulations, subject to the power of the Commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same.

Within 30 days after such changes have been authorized by the Commission, copies of the new or revised schedules shall be posted or filed in accordance with the terms of Section 9-103 of this Act, in such a manner that all changes shall be plainly indicated. The Commission shall incorporate into the period of suspension a review period of 4 business days during which the Commission may review and determine whether the new or revised schedules comply with the Commission's decision approving a change to the public utility's rates. Such review period shall not extend the suspension period by more than 2 days. Absent notification to the contrary within the 4 business day period, the new or revised schedules shall be deemed approved.

(c) If the Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, classification, contract, practice, rule or regulation, the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. In such hearing, the burden of proof to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole and in part, shall be upon the utility. The utility, the staff of the Commission, the Attorney General, or any party to a proceeding initiated under this Section who has been granted intervenor status and submitted a post-hearing brief must be given the opportunity to present oral argument, if requested no later than the date for filing exceptions, on the propriety of any proposed rate or other charge, classification, contract, practice, rule, or regulation. No rate or other charge, classification, contract, practice, rule or regulation shall be found just and reasonable unless it is consistent with Sections of this Article.

(d) Except where compliance with Section 8-401 of this Act is of urgent and immediate concern, no representative of a public utility may discuss with a commissioner, commissioner's assistant, or hearing examiner in a non-public setting a planned filing for a general rate increase. If a public utility makes a filing under this Section, then no substantive communication by any such person with a commissioner, commissioner's assistant or hearing examiner concerning the filing is permitted until a notice of hearing has been issued. After the notice of hearing has been issued, the only communications by any such person with a commissioner, commissioner's assistant, or hearing examiner concerning the filing permitted are communications permitted under Section 10-103 of this Act. If any such communication does occur, then within 5 days of the docket being initiated all details relating to the communication shall be placed on the public record of the proceeding. The record shall include any materials, whether written, recorded, filmed, or graphic in nature, produced or reproduced on any media, used in connection with the communication. The record shall reflect the names of all persons who transmitted, received, or were otherwise involved in the communication, the duration of the communication, and whether the communication occurred in person or by other means. In the case of an oral communication, the record shall also reflect the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication. A commissioner, commissioner's assistant, or hearing examiner who is involved in any such communication shall be recused from the affected proceeding. The Commission, or any commissioner or hearing examiner presiding over the proceeding shall, in the event of a violation of this Section, take action necessary to ensure that such violation does not prejudice any party or adversely affect the fairness of the proceedings including dismissing the affected proceeding. Nothing in this subsection (d) is intended to preclude otherwise allowable updates on issues that may be indirectly related to a general rate case filing because cost recovery for the underlying activity may be requested. Such updates may include, without limitation, issues related to outages and restoration, credit ratings, security issuances, reliability, Federal Energy Regulatory Commission matters, Federal Communications Commission matters, regional reliability organizations, consumer education, or labor matters, provided that such updates may not include cost recovery in a planned rate case.

(Source: P.A. 84-617.)

(220 ILCS 5/9-229 new)

Sec. 9-229. Consideration of attorney and expert compensation as an expense. The Commission shall specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing. This issue shall be expressly addressed in the Commission's final order.

(220 ILCS 5/10-102) (from Ch. 111 2/3, par. 10-102)

Sec. 10-102. All meetings of the Commission shall be conducted pursuant to the provisions of the Open Meetings Act. Whenever the Commission holds an open meeting or, pursuant to such Act, closes any meeting, or portion of any meeting, it shall arrange for all discussions, deliberations and meetings ~~so~~ closed to be transcribed verbatim by a ~~stenographer~~, certified court reporter, ~~or similar means~~. The transcripts may be provided in an electronic format only. The Commission shall review and approve all such transcripts within 30 days of the date of the ~~closed~~ meeting, but at least 10 days prior to the expiration of the time within which an application for rehearing is due in any proceeding that is the subject of the meeting. When and when, in the Commission's ~~its~~ judgment, the exception of the Open Meetings Act relied upon for authorizing the closing of a ~~such~~ meeting, as recorded pursuant to Section 2a of the Open Meetings Act, is no longer applicable, such transcripts shall be made available to the public. Any party to a Commission proceeding shall be given access to the transcript of any closed meeting pertaining to such proceeding at least 10 days prior to the expiration of the time within which his application for rehearing must be filed, upon the signing of an appropriate protective agreement. Transcripts of open Commission meetings shall be electronically posted in the relevant docket on the same day that the transcript is approved by the Commission.

(Source: P.A. 84-617.)

(220 ILCS 5/10-103) (from Ch. 111 2/3, par. 10-103)

Sec. 10-103. In all proceedings, investigations or hearings conducted by the Commission, except in the disposition of matters which the Commission is authorized to entertain or dispose of on an ex parte basis, any finding, decision or order made by the Commission shall be based exclusively on the record for decision in the case, which shall include only the transcript of testimony and exhibits together with all papers and requests filed in the proceeding, including, in contested cases, the documents and information described in Section 10-35 of the Illinois Administrative Procedure Act.

The provisions of Section 10-60 of the Illinois Administrative Procedure Act shall apply in full to Commission proceedings, including ratemaking cases, any provision of the Illinois Administrative Procedure Act to the contrary notwithstanding.

The provisions of Section 10-60 shall not apply, however, to communications between Commission employees who are engaged in investigatory, prosecutorial or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60, directly or indirectly, with members of the Commission, any hearing examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding. Any commissioner, hearing examiner, or other ~~person Commission employee~~ who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by this Section or Section 10-60 of the Illinois Administrative Procedure Act as modified by this Section, shall place on the public record of the proceeding (1) any and all such written communications; (2) memoranda stating the substance of any and all such oral communications; and (3) any and all written responses and memoranda stating the substance of any and all oral responses to the materials described in clauses (1) and (2).

The Commission, or any commissioner or hearing examiner presiding over the proceeding, shall in the event of a violation of this Section, take whatever action is necessary to ensure that such violation does not prejudice any party or adversely affect the fairness of the proceedings, including dismissing the affected matter.

(Source: P.A. 88-45.)

(220 ILCS 5/10-110) (from Ch. 111 2/3, par. 10-110)

Sec. 10-110. At the time fixed for any hearing upon a complaint, the complainant and the person or corporation complained of, and such persons or corporations as the Commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The Commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing the Commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the Commission, shall be served upon the person or corporation complained of, or his or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the Commission. Where an order cannot, in the judgment of the Commission, be complied with within twenty days, the Commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record shall be preserved of all proceedings had before the Commission, or any member thereof, or any hearing examiner, on any formal hearing had,

and all testimony shall be taken down by a stenographer appointed by the Commission, and the parties shall be entitled to be heard in person or by attorney.

In any proceeding involving a public utility in which the lawfulness of any of its rates or other charges shall be called in question by any person or corporation furnishing a commodity or service in competition with said public utility at prices or charges not subject to regulation, the Commission may investigate the competitive prices or other charges demanded or received by such person or corporation for such commodity or service, including the rates or other charges applicable to the transportation thereof. The Commission may, on its own motion or that of any party to such proceeding, issue subpoenas to secure the appearance of witnesses or the production of books, papers, accounts and documents necessary to ascertain the prices, rates or other charges for such commodity or service or for the transportation thereof, and shall dismiss from such proceeding any party failing to comply with a subpoena so issued.

In case of an appeal from any order or decision of the Commission, under the terms of Sections 10-201 and 10-202 of this Act, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the Commission on its own initiative and considered by it in rendering its order or decision (and required by this Act to be made a part of its records) and of the pleadings, records and proceedings in the case, including transcripts of Commission meetings prepared in accordance with Section 10-102 of this Act, shall constitute the record of the Commission: Provided, that on appeal from an order or decision of the Commission, the person or corporation taking the appeal and the Commission may stipulate that a certain question or certain questions alone and a specified portion only of the evidence shall be certified to the court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on appeal.

Copies of all official documents and orders filed or deposited according to law in the office of the Commission, certified by the Chairman of the Commission or his or her designee to be true copies of the originals, under the official seal of the Commission, shall be evidence in like manner as the originals.

In any matter concerning which the Commission is authorized to hold a hearing, upon complaint or application or upon its own motion, notice shall be given to the public utility and to such other interested persons as the Commission shall deem necessary in the manner provided in Section 10-108, and the hearing shall be conducted in like manner as if complaint had been made to or by the Commission. But nothing in this Act shall be taken to limit or restrict the power of the Commission, summarily, of its own motion, with or without notice, to conduct any investigations or inquiries authorized by this Act, in such manner and by such means as it may deem proper, and to take such action as it may deem necessary in connection therewith. With respect to any rules, regulations, decisions or orders which the Commission is authorized to issue without a hearing, and so issues, any public utility or other person or corporation affected thereby and deeming such rules, regulations, decisions or orders, or any of them, improper, unreasonable or contrary to law, may apply for a hearing thereon, setting forth specifically in such application every ground of objection which the applicant desires to urge against such rule, regulation, decision or order. The Commission may, in its discretion, grant or deny the application, and a hearing, if had, shall be subject to the provisions of this and the preceding Sections.
(Source: P.A. 84-617; 84-1118.)

(220 ILCS 5/10-111) (from Ch. 111 2/3, par. 10-111)

Sec. 10-111. In any hearing, proceeding, investigation or rulemaking conducted by the Commission, the Commission, commissioner or hearing examiner presiding, shall, after the close of evidentiary hearings, prepare a recommended or tentative decision, finding or order including a statement of findings and conclusions and the reasons or basis ~~therefor~~ thereof, on all the material issues of fact, law or discretion presented on the record. Such recommended or tentative decision, finding or order shall be served on all parties who shall be entitled to a reasonable opportunity to respond thereto, either in briefs or comments otherwise to be filed or separately. The recommended or tentative decision, finding or order and any responses thereto, shall be included in the record for decision. This Section shall not apply to any hearing, proceeding, or investigation conducted under Section 13-515.

(Source: P.A. 90-185, eff. 7-23-97.)

(220 ILCS 5/10-201) (from Ch. 111 2/3, par. 10-201)

Sec. 10-201. (a) Jurisdiction. Within 35 days from the date that a copy of the order or decision sought to be reviewed was served upon the party affected by any order or decision of the Commission refusing an application for a rehearing of any rule, regulation, order or decision of the Commission, including any order granting or denying interim rate relief, or within 35 days from the date that a copy of the order or decision sought to be reviewed was served upon the party affected by any final order or decision of the Commission upon and after a rehearing of any rule, regulation, order or decision of the Commission, including any order granting or denying interim rate relief, any person or corporation affected by such

rule, regulation, order or decision, may appeal to the appellate court of the judicial district in which the subject matter of the hearing is situated, or if the subject matter of the hearing is situated in more than one district, then of any one of such districts, for the purpose of having the reasonableness or lawfulness of the rule, regulation, order or decision inquired into and determined.

The court first acquiring jurisdiction of any appeal from any rule, regulation, order or decision shall have and retain jurisdiction of such appeal and of all further appeals from the same rule, regulation, order or decision until such appeal is disposed of in such appellate court.

(b) Pleadings and Record. No proceeding to contest any rule, regulation, decision or order which the Commission is authorized to issue without a hearing and has so issued shall be brought in any court unless application shall have been first made to the Commission for a hearing thereon and until after such application has been acted upon by the Commission, nor shall any person or corporation in any court urge or rely upon any grounds not set forth in such application for a hearing before the Commission, but the Commission shall decide the questions presented by the application with all possible expedition consistent with the duties of the Commission. The party taking such an appeal shall file with the Commission written notice of the appeal. The Commission, upon the filing of such notice of appeal, shall, within 5 days thereafter, file with the clerk of the appellate court to which such appeal is taken a certified copy of the order appealed. ~~The from and within 20 days thereafter the party appealing shall furnish to the Commission shall prepare either a copy of the transcript of the evidence, including exhibits and transcripts of Commission meetings prepared in accordance with Section 10-102 of this Act, or any portion of the record designated in~~ ~~enter into~~ a stipulation that only certain questions are involved on appeal, which ~~transcript or stipulation~~ is to be included in the record provided for in Section 10-110. The Commission shall certify the record and file the same with the clerk of the appellate court to which such appeal is taken within ~~35~~ ~~45~~ days of ~~the filing of the notice of appeal being furnished the transcript or stipulation~~. The party serving such notice of appeal shall, within 5 days after the service of such notice upon the Commission, file a copy of the notice, with proof of service, with the clerk of the court to which such appeal is taken, and thereupon the appellate court shall have jurisdiction over the appeal. The appeal shall be heard according to the rules governing other civil cases, so far as the same are applicable.

(c) No appellate court shall permit a party affected by any rule, regulation, order or decision of the Commission to intervene or become a party plaintiff or appellant in such court who has not taken an appeal from such rule, regulation, order or decision in the manner as herein provided.

(d) No new or additional evidence may be introduced in any proceeding upon appeal from a rule, regulation, order or decision of the Commission, issued or confirmed after a hearing, but the appeal shall be heard on the record of the Commission as certified by it. The findings and conclusions of the Commission on questions of fact shall be held prima facie to be true and as found by the Commission; rules, regulations, orders or decisions of the Commission shall be held to be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be upon the person or corporation appealing from such rules, regulations, orders or decisions.

(e) Powers and duties of Reviewing Court:

(i) An appellate court to which any such appeal is taken shall have the power, and it shall be its duty, to hear and determine such appeal with all convenient speed. Any proceeding in any court in this State directly affecting a rule, regulation, order or decision of the Commission, or to which the Commission is a party, shall have priority in hearing and determination over all other civil proceedings pending in such court, excepting election contests.

(ii) If it appears that the Commission failed to receive evidence properly proffered, on a hearing or a rehearing, or an application therefor, the court shall remand the case, in whole or in part, to the Commission with instructions to receive the testimony so proffered and rejected, and to enter a new order based upon the evidence theretofore taken, and such new evidence as it is directed to receive, unless it shall appear that such new evidence would not be controlling, in which case the court shall so find in its order. If the court remands only part of the Commission's rule, regulation, order or decision, it shall determine without delay the lawfulness and reasonableness of any independent portions of the rule, regulation, order or decision subject to appeal.

(iii) If the court determines that the Commission's rule, regulation, order or decision does not contain findings or analysis sufficient to allow an informed judicial review thereof, the court shall remand the rule, regulation, order or decision, in whole or in part, with instructions to the Commission to make the necessary findings or analysis.

(iv) The court shall reverse a Commission rule, regulation, order or decision, in whole or in part, if it finds that:

A. The findings of the Commission are not supported by substantial evidence based

on the entire record of evidence presented to or before the Commission for and against such rule, regulation, order or decision; or

B. The rule, regulation, order or decision is without the jurisdiction of the Commission; or

C. The rule, regulation, order or decision is in violation of the State or federal constitution or laws; or

D. The proceedings or manner by which the Commission considered and decided its rule, regulation, order or decision were in violation of the State or federal constitution or laws, to the prejudice of the appellant.

(v) The court may affirm or reverse the rule, regulation, order or decision of the Commission in whole or in part, or to remand the decision in whole or in part where a hearing has been held before the Commission, and to state the questions requiring further hearings or proceedings and to give such other instructions as may be proper.

(vi) When the court remands a rule, regulation, order or decision of the Commission, in whole or in part, the Commission shall enter its final order with respect to the remanded rule, regulation, order or decision no later than 6 months after the date of issuance of the court's mandate. The Commission shall enter its final order, with respect to any remanded matter pending before it on the effective date of this amendatory Act of 1988, no later than 6 months after the effective date of this amendatory Act of 1988. However, when the court mandates, or grants an extension of time which the court determines to be necessary for, the taking of additional evidence, the Commission shall enter an interim order within 6 months after the issuance of the mandate (or within 6 months after the effective date of this amendatory Act of 1988 in the case of a remanded matter pending before it on the effective date of this amendatory Act of 1988), and the Commission shall enter its final order within 5 months after the date the interim order was entered.

(f) When no appeal is taken from a rule, regulation, order or decision of the Commission, as herein provided, parties affected by such rule, regulation, order or decision, shall be deemed to have waived the right to have the merits of the controversy reviewed by a court and there shall be no trial of the merits of any controversy in which such rule, regulation, order or decision was made, by any court to which application may be made for the enforcement of the same, or in any other judicial proceedings.

(Source: P.A. 88-1.)

(220 ILCS 5/16-111.7 new)

Sec. 16-111.7. On-bill financing program: electric utilities.

(a) The Illinois General Assembly finds that Illinois homes and businesses have the potential to save energy through conservation and cost-effective energy efficiency measures. Programs created pursuant to this Section will allow utility customers to purchase cost-effective energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.

(b) Notwithstanding any other provision of this Act, an electric utility serving more than 100,000 customers on January 1, 2009 shall offer a Commission-approved on-bill financing program ("program") that allows its eligible retail customers, as that term is defined in Section 16-111.5 of this Act, who own a residential single family home, duplex, or other residential building with 4 or less units, or condominium at which the electric service is being provided (i) to borrow funds from a third party lender in order to purchase electric energy efficiency measures approved under the program for installation in such home or condominium without any required upfront payment and (ii) to pay back such funds over time through the electric utility's bill. Based upon the process described in subsection (b-5) of this Section, small commercial retail customers, as that term is defined in Section 16-102 of this Act, who own the premises at which electric service is being provided may be included in such program. After receiving a request from an electric utility for approval of a proposed program and tariffs pursuant to this Section, the Commission shall render its decision within 120 days. If no decision is rendered within 120 days, then the request shall be deemed to be approved.

(b-5) Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, the Commission shall convene a workshop process during which interested participants may discuss issues related to the program, including program design, eligible electric energy efficiency measures, vendor qualifications, and a methodology for ensuring ongoing compliance with such qualifications, financing, sample documents such as request for proposals, contracts and agreements, dispute resolution, pre-installment and post-installment verification, and evaluation. The workshop process shall be completed within 150 days after the effective date of this amendatory Act of the 96th General Assembly.

(c) Not later than 60 days following completion of the workshop process described in subsection (b-5) of this Section, each electric utility subject to subsection (b) of this Section shall submit a proposed

program to the Commission that contains the following components:

(1) A list of recommended electric energy efficiency measures that will be eligible for on-bill financing. An eligible electric energy efficiency measure ("measure") shall be defined by the following:

(A) the measure would be applied to or replace electric energy-using equipment; and

(B) application of the measure to equipment and systems will have estimated electricity savings (determined by rates in effect at the time of purchase), that are sufficient to cover the costs of implementing the measures, including finance charges and any program fees not recovered pursuant to subsection (f) of this Section. To assist the electric utility in identifying or approving measures, the utility may consult with the Department of Commerce and Economic Opportunity, as well as with retailers, technicians, and installers of electric energy efficiency measures and energy auditors (collectively "vendors").

(2) The electric utility shall issue a request for proposals ("RFP") to lenders for purposes of providing financing to participants to pay for approved measures. The RFP criteria shall include, but not be limited to, the interest rate, origination fees, and credit terms. The utility shall select the winning bidders based on its evaluation of these criteria, with a preference for those bids containing the rates, fees, and terms most favorable to participants;

(3) The utility shall work with the lenders selected pursuant to the RFP process, and with vendors, to establish the terms and processes pursuant to which a participant can purchase eligible electric energy efficiency measures using the financing obtained from the lender. The vendor shall explain and offer the approved financing packaging to those customers identified in subsection (b) of this Section and shall assist customers in applying for financing. As part of the process, vendors shall also provide to participants information about any other incentives that may be available for the measures.

(4) The lender shall conduct credit checks or undertake other appropriate measures to limit credit risk, and shall review and approve or deny financing applications submitted by customers identified in subsection (b) of this Section. Following the lender's approval of financing and the participant's purchase of the measure or measures, the lender shall forward payment information to the electric utility, and the utility shall add as a separate line item on the participant's utility bill a charge showing the amount due under the program each month.

(5) A loan issued to a participant pursuant to the program shall be the sole responsibility of the participant, and any dispute that may arise concerning the loan's terms, conditions, or charges shall be resolved between the participant and lender. Upon transfer of the property title for the premises at which the participant receives electric service from the utility or the participant's request to terminate service at such premises, the participant shall pay in full its electric utility bill, including all amounts due under the program, provided that this obligation may be modified as provided in subsection (g) of this Section. Amounts due under the program shall be deemed amounts owed for residential and, as appropriate, small commercial electric service.

(6) The electric utility shall remit payment in full to the lender each month on behalf of the participant. In the event a participant defaults on payment of its electric utility bill, the electric utility shall continue to remit all payments due under the program to the lender, and the utility shall be entitled to recover all costs related to a participant's nonpayment through the automatic adjustment clause tariff established pursuant to Section 16-111.8 of this Act. In addition, the electric utility shall retain a security interest in the measure or measures purchased under the program, and the utility retains its right to disconnect a participant that defaults on the payment of its utility bill.

(7) The total outstanding amount financed under the program shall not exceed \$2.5 million for an electric utility or electric utilities under a single holding company, provided that the electric utility or electric utilities may petition the Commission for an increase in such amount.

(d) A program approved by the Commission shall also include the following criteria and guidelines for such program:

(1) guidelines for financing of measures installed under a program, including, but not limited to, RFP criteria and limits on both individual loan amounts and the duration of the loans;

(2) criteria and standards for identifying and approving measures;

(3) qualifications of vendors that will market or install measures, as well as a methodology for ensuring ongoing compliance with such qualifications;

(4) sample contracts and agreements necessary to implement the measures and program; and

(5) the types of data and information that utilities and vendors participating in the program shall collect for purposes of preparing the reports required under subsection (g) of this Section.

(e) The proposed program submitted by each electric utility shall be consistent with the provisions of this Section that define operational, financial and billing arrangements between and among program participants, vendors, lenders, and the electric utility.

(f) An electric utility shall recover all of the prudently incurred costs of offering a program approved by the Commission pursuant to this Section, including, but not limited to, all start-up and administrative costs and the costs for program evaluation. All prudently incurred costs under this Section shall be recovered from the residential and small commercial retail customer classes eligible to participate in the program through the automatic adjustment clause tariff established pursuant to Section 8-103 of this Act.

(g) An independent evaluation of a program shall be conducted after 3 years of the program's operation. The electric utility shall retain an independent evaluator who shall evaluate the effects of the measures installed under the program and the overall operation of the program, including but not limited to customer eligibility criteria and whether the payment obligation for permanent electric energy efficiency measures that will continue to provide benefits of energy savings should attach to the meter location. As part of the evaluation process, the evaluator shall also solicit feedback from participants and interested stakeholders. The evaluator shall issue a report to the Commission on its findings no later than 4 years after the date on which the program commenced, and the Commission shall issue a report to the Governor and General Assembly including a summary of the information described in this Section as well as its recommendations as to whether the program should be discontinued, continued with modification or modifications or continued without modification, provided that any recommended modifications shall only apply prospectively and to measures not yet installed or financed.

(h) An electric utility offering a Commission-approved program pursuant to this Section shall not be required to comply with any other statute, order, rule, or regulation of this State that may relate to the offering of such program, provided that nothing in this Section is intended to limit the electric utility's obligation to comply with this Act and the Commission's orders, rules, and regulations, including Part 280 of Title 83 of the Illinois Administrative Code.

(i) The source of a utility customer's electric supply shall not disqualify a customer from participation in the utility's on-bill financing program. Customers of alternative retail electric suppliers may participate in the program under the same terms and conditions applicable to the utility's supply customers.

(220 ILCS 5/16-111.8 new)

Sec. 16-111.8. Automatic adjustment clause tariff; uncollectibles.

(a) An electric utility shall be permitted, at its election, to recover through an automatic adjustment clause tariff the incremental difference between its actual uncollectible amount as set forth in Account 904 in the utility's most recent annual FERC Form 1 and the uncollectible amount included in the utility's rates for the period reported in such annual FERC Form 1. The Commission may, in a proceeding to review a general rate case filed subsequent to the effective date of the tariff established under this Section, prospectively switch from using the actual uncollectible amount set forth in Account 904 to using net write-offs in such tariff, but only if net write-offs are also used to determine the utility's uncollectible amount in rates. In the event the Commission requires such a change, it shall be made effective at the beginning of the first full calendar year after the new rates approved in such proceeding are first placed in effect and an adjustment shall be made, if necessary, to ensure the change does not result in double-recovery or unrecovered uncollectible amounts for any year. For purposes of this Section, "uncollectible amount" means the expense set forth in Account 904 of the utility's FERC Form 1 or cost of net write-offs as appropriate. In the event the utility's rates change during the period of time reported in its most recent annual FERC Form 1, the uncollectible amount included in the utility's rates during such period of time for purposes of this Section will be a weighted average, based on revenues earned during such period by the utility under each set of rates, of the uncollectible amount included in the utility's rates at the beginning of such period and at the end of such period. This difference may either be a charge or a credit to customers depending on whether the uncollectible amount is more or less than the uncollectible amount then included in the utility's rates.

(b) The tariff may be established outside the context of a general rate case filing and shall specify the terms of any applicable audit. The Commission shall review and by order approve, or approve as modified, the proposed tariff within 180 days after the date on which it is filed. Charges and credits under the tariff shall be allocated to the appropriate customer class or classes. In addition, customers who purchase their electric supply from an alternative retail electric supplier shall not be charged by the utility for uncollectible amounts associated with electric supply provided by the utility to the utility's customers, provided that nothing in this Section is intended to affect or alter the rights and obligations imposed pursuant to Section 16-118 of this Act and any Commission order issued thereunder. Upon approval of the tariff, the utility shall, based on the 2008 FERC Form 1, apply the appropriate credit or charge based on the full year 2008 amounts for the remainder of the 2010 calendar year. Starting with the 2009 FERC Form 1 reporting period and each subsequent period, the utility shall apply the appropriate credit or charge over a 12-month period beginning with the June billing period and ending

with the May billing period, with the first such billing period beginning June 2010.

(c) The approved tariff shall provide that the utility shall file a petition with the Commission annually, no later than August 31st, seeking initiation of an annual review to reconcile all amounts collected with the actual uncollectible amount in the prior period. As part of its review, the Commission shall verify that the utility collects no more and no less than its actual uncollectible amount in each applicable FERC Form 1 reporting period. The Commission shall review the prudence and reasonableness of the utility's actions to pursue minimization and collection of uncollectibles which shall include, at a minimum, the 6 enumerated criteria set forth in this Section. The Commission shall determine any required adjustments and may include suggestions for prospective changes in current practices. Nothing in this Section or the implementing tariffs shall affect or alter the electric utility's existing obligation to pursue collection of uncollectibles or the electric utility's right to disconnect service. A utility that has in effect a tariff authorized by this Section shall pursue minimization of and collection of uncollectibles through the following activities, including, but not limited to:

(1) identifying customers with late payments;

(2) contacting the customers in an effort to obtain payment;

(3) providing delinquent customers with information about possible options, including payment plans and assistance programs;

(4) serving disconnection notices;

(5) implementing disconnections based on the level of uncollectibles; and

(6) pursuing collection activities based on the level of uncollectibles.

(d) Nothing in this Section shall be construed to require a utility to immediately disconnect service for nonpayment.

(220 ILCS 5/16-115D new)

Sec. 16-115D. Renewable portfolio standard for alternative retail electric suppliers and electric utilities operating outside their service territories.

(a) An alternative retail electric supplier shall be responsible for procuring cost-effective renewable energy resources as required under item (5) of subsection (d) of Section 16-115 of this Act as outlined herein:

(1) The definition of renewable energy resources contained in Section 1-10 of the Illinois Power Agency Act applies to all renewable energy resources required to be procured by alternative retail electric suppliers.

(2) The quantity of renewable energy resources shall be measured as a percentage of the actual amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the 12-month period June 1 through May 31, commencing June 1, 2009, and the comparable 12-month period in each year thereafter except as provided in item (6) of this subsection (a).

(3) The quantity of renewable energy resources shall be in amounts at least equal to the annual percentages set forth in item (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act. At least 60% of the renewable energy resources procured pursuant to items (1) through (3) of subsection (b) of this Section shall come from wind generation and, starting June 1, 2015, at least 6% of the renewable energy resources procured pursuant to items (1) through (3) of subsection (b) of this Section shall come from solar photovoltaics. If, in any given year, an alternative retail electric supplier does not purchase at least these levels of renewable energy resources, then the alternative retail electric supplier shall make alternative compliance payments, as described in subsection (d) of this Section.

(4) The quantity and source of renewable energy resources shall be independently verified through the PJM Environmental Information System Generation Attribute Tracking System (PJM-GATS) or the Midwest Renewable Energy Tracking System (M-RETS), which shall document the location of generation, resource type, month, and year of generation for all qualifying renewable energy resources that an alternative retail electric supplier uses to comply with this Section. No later than June 1, 2009, the Illinois Power Agency shall provide PJM-GATS, M-RETS, and alternative retail electric suppliers with all information necessary to identify resources located in Illinois, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States that qualify under the definition of renewable energy resources in Section 1-10 of the Illinois Power Agency Act for compliance with this Section 16-115D. Alternative retail electric suppliers shall not be subject to the requirements in item (3) of subsection (c) of Section 1-75 of the Illinois Power Agency Act.

(5) All renewable energy credits used to comply with this Section shall be permanently retired.

(6) The required procurement of renewable energy resources by an alternative retail electric supplier shall apply to all metered electricity delivered to Illinois retail customers by the alternative retail electric supplier pursuant to contracts executed or extended after March 15, 2009.

[May 28, 2009]

(b) An alternative retail electric supplier shall comply with the renewable energy portfolio standards by making an alternative compliance payment, as described in subsection (d) of this Section, to cover at least one-half of the alternative retail electric supplier's compliance obligation and any one or combination of the following means to cover the remainder of the alternative retail electric supplier's compliance obligation:

(1) Generating electricity using renewable energy resources identified pursuant to item (4) of subsection (a) of this Section.

(2) Purchasing electricity generated using renewable energy resources identified pursuant to item (4) of subsection (a) of this Section through an energy contract.

(3) Purchasing renewable energy credits from renewable energy resources identified pursuant to item (4) of subsection (a) of this Section.

(4) Making an alternative compliance payment as described in subsection (d) of this Section.

(c) Use of renewable energy credits.

(1) Renewable energy credits that are not used by an alternative retail electric supplier to comply with a renewable portfolio standard in a compliance year may be banked and carried forward up to 2 12-month compliance periods after the compliance period in which the credit was generated for the purpose of complying with a renewable portfolio standard in those 2 subsequent compliance periods. For the 2009-2010 and 2010-2011 compliance periods, an alternative retail electric supplier may use renewable credits generated after December 31, 2008 and before June 1, 2009 to comply with this Section.

(2) An alternative retail electric supplier is responsible for demonstrating that a renewable energy credit used to comply with a renewable portfolio standard is derived from a renewable energy resource and that the alternative retail electric supplier has not used, traded, sold, or otherwise transferred the credit.

(3) The same renewable energy credit may be used by an alternative retail electric supplier to comply with a federal renewable portfolio standard and a renewable portfolio standard established under this Act. An alternative retail electric supplier that uses a renewable energy credit to comply with a renewable portfolio standard imposed by any other state may not use the same credit to comply with a renewable portfolio standard established under this Act.

(d) Alternative compliance payments.

(1) The Commission shall establish and post on its website, within 5 business days after entering an order approving a procurement plan pursuant to Section 1-75 of the Illinois Power Agency Act, maximum alternative compliance payment rates, expressed on a per kilowatt-hour basis, that will be applicable in the first compliance period following the plan approval. A separate maximum alternative compliance payment rate shall be established for the service territory of each electric utility that is subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act. Each maximum alternative compliance payment rate shall be equal to the maximum allowable annual estimated average net increase due to the costs of the utility's purchase of renewable energy resources included in the amounts paid by eligible retail customers in connection with electric service, as described in item (2) of subsection (c) of Section 1-75 of the Illinois Power Agency Act for the compliance period, and as established in the approved procurement plan. Following each procurement event through which renewable energy resources are purchased for one or more of these utilities for the compliance period, the Commission shall establish and post on its website estimates of the alternative compliance payment rates, expressed on a per kilowatt-hour basis, that shall apply for that compliance period. Posting of the estimates shall occur no later than 10 business days following the procurement event, however, the Commission shall not be required to establish and post such estimates more often than once per calendar month. By July 1 of each year, the Commission shall establish and post on its website the actual alternative compliance payment rates for the preceding compliance year. Each alternative compliance payment rate shall be equal to the total amount of dollars for which the utility contracted to spend on renewable resources for the compliance period divided by the forecasted load of eligible retail customers, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year. The actual alternative compliance payment rates may not exceed the maximum alternative compliance payment rates established for the compliance period. For purposes of this subsection (d), the term "eligible retail customers" has the same meaning as found in Section 16-111.5 of this Act.

(2) In any given compliance year, an alternative retail electric supplier may elect to use alternative compliance payments to comply with all or a part of the applicable renewable portfolio standard. In the event that an alternative retail electric supplier elects to make alternative compliance payments to comply with all or a part of the applicable renewable portfolio standard, such payments shall be made by September 1, 2010 for the period of June 1, 2009 to May 1, 2010 and by September 1 of each year

thereafter for the subsequent compliance period, in the manner and form as determined by the Commission. Any election by an alternative retail electric supplier to use alternative compliance payments is subject to review by the Commission under subsection (e) of this Section.

(3) An alternative retail electric supplier's alternative compliance payments shall be computed separately for each electric utility's service territory within which the alternative retail electric supplier provided retail service during the compliance period, provided that the electric utility was subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act. For each service territory, the alternative retail electric supplier's alternative compliance payment shall be equal to (i) the actual alternative compliance payment rate established in item (1) of this subsection (d), multiplied by (ii) the actual amount of metered electricity delivered by the alternative retail electric supplier to retail customers within the service territory during the compliance period, multiplied by (iii) the result of one minus the ratios of the quantity of renewable energy resources used by the alternative retail electric supplier to comply with the requirements of this Section within the service territory to the product of the percentage of renewable energy resources required under item (3) of subsection (a) of this Section and the actual amount of metered electricity delivered by the alternative retail electric supplier to retail customers within the service territory during the compliance period.

(4) All alternative compliance payments by alternative retail electric suppliers shall be deposited in the Illinois Power Agency Renewable Energy Resources Fund and used to purchase renewable energy credits, in accordance with Section 1-56 of the Illinois Power Agency Act.

(5) The Commission, in consultation with the Illinois Power Agency, shall establish a process or proceeding to consider the impact of a federal renewable portfolio standard, if enacted, on the operation of the alternative compliance mechanism, which shall include, but not be limited to, developing, to the extent permitted by the applicable federal statute, an appropriate methodology to apportion renewable energy credits retired as a result of alternative compliance payments made in accordance with this Section. The Commission shall commence any such process or proceeding within 35 days after enactment of a federal renewable portfolio standard.

(e) Each alternative retail electric supplier shall, by September 1, 2010 and by September 1 of each year thereafter, prepare and submit to the Commission a report, in a format to be specified by the Commission on or before December 31, 2009, that provides information certifying compliance by the alternative retail electric supplier with this Section, including copies of all PJM-GATS and M-RETS reports, and documentation relating to banking, retiring renewable energy credits, and any other information that the Commission determines necessary to ensure compliance with this Section. An alternative retail electric supplier may file commercially or financially sensitive information or trade secrets with the Commission as provided under the rules of the Commission. To be filed confidentially, the information shall be accompanied by an affidavit that sets forth both the reasons for the confidentiality and a public synopsis of the information.

(f) The Commission may initiate a contested case to review allegations that the alternative retail electric supplier has violated this Section, including an order issued or rule promulgated under this Section. In any such proceeding, the alternative retail electric supplier shall have the burden of proof. If the Commission finds, after notice and hearing, that an alternative retail electric supplier has violated this Section, then the Commission shall issue an order requiring the alternative retail electric supplier to:

(1) immediately comply with this Section; and

(2) if the violation involves a failure to procure the requisite quantity of renewable energy resources or pay the applicable alternative compliance payment by the annual deadline, the Commission shall require the alternative retail electric supplier to double the applicable alternative compliance payment that would otherwise be required to bring the alternative retail electric supplier into compliance with this Section.

If an alternative retail electric supplier fails to comply with the renewable energy resource portfolio requirement in this Section more than once in a 5-year period, then the Commission shall revoke the alternative electric supplier's certificate of service authority. The Commission shall not accept an application for a certificate of service authority from an alternative retail electric supplier that has lost certification under this subsection (f), or any corporate affiliate thereof, for at least one year after the date of revocation.

(g) All of the provisions of this Section apply to electric utilities operating outside their service area except under item (2) of subsection (a) of this Section the quantity of renewable energy resources shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied in the State outside of the utility's service territory during the 12-month period June 1 through May 31, commencing June 1, 2009, and the comparable 12-month period in each year thereafter except as provided in item (6) of subsection (a) of this Section.

If any such utility fails to procure the requisite quantity of renewable energy resources by the annual

deadline, then the Commission shall require the utility to double the alternative compliance payment that would otherwise be required to bring the utility into compliance with this Section.

If any such utility fails to comply with the renewable energy resource portfolio requirement in this Section more than once in a 5-year period, then the Commission shall order the utility to cease all sales outside of the utility's service territory for a period of at least one year.

(h) The provisions of this Section and the provisions of subsection (d) of Section 16-115 of this Act relating to procurement of renewable energy resources shall not apply to an Alternative Retail Electric Supplier that operates a combined heat and power system in this State or that has a corporate affiliate that operates such a combined heat and power system in this State that supplies electricity primarily to or for the benefit of: (i) facilities owned by the supplier, its subsidiary, or other corporate affiliate; (ii) facilities electrically integrated with the electrical system of facilities owned by the supplier, its subsidiary, or other corporate affiliate; or (iii) facilities that are adjacent to the site on which the combined heat and power system is located.

(220 ILCS 5/19-140 new)

Sec. 19-140. On-bill financing program; gas utilities.

(a) The Illinois General Assembly finds that Illinois homes and businesses have the potential to save energy through conservation and cost-effective energy efficiency measures. Programs created pursuant to this Section will allow utility customers to purchase cost-effective energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.

(b) Notwithstanding any other provision of this Act, a gas utility serving more than 100,000 customers on January 1, 2009 shall offer a Commission-approved on-bill financing program ("program") that allows its retail customers who own a residential single family home, duplex, or other residential building with 4 or less units, or condominium at which the gas service is being provided (i) to borrow funds from a third party lender in order to purchase gas energy efficiency measures approved under the program for installation in such home or condominium without any required upfront payment and (ii) to pay back such funds over time through the gas utility's bill. Based upon the process described in subsection (b-5) of this Section, small commercial retail customers, as that term is defined in Section 19-105 of this Act, who own the premises at which gas service is being provided may be included in such program. After receiving a request from a gas utility for approval of a proposed program and tariffs pursuant to this Section, the Commission shall render its decision within 120 days. If no decision is rendered within 120 days, then the request shall be deemed to be approved.

(b-5) Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, the Commission shall convene a workshop process during which interested participants may discuss issues related to the program, including program design, eligible gas energy efficiency measures, vendor qualifications, and a methodology for ensuring ongoing compliance with such qualifications, financing, sample documents such as request for proposals, contracts and agreements, dispute resolution, pre-installment and post-installment verification, and evaluation. The workshop process shall be completed within 150 days after the effective date of this amendatory Act of the 96th General Assembly.

(c) Not later than 60 days following completion of the workshop process described in subsection (b-5) of this Section, each gas utility subject to subsection (b) of this Section shall submit a proposed program to the Commission that contains the following components:

(1) A list of recommended gas energy efficiency measures that will be eligible for on-bill financing. An eligible gas energy efficiency measure ("measure") shall be defined by the following:

(A) The measure would be applied to or replace gas energy-using equipment; and

(B) Application of the measure to equipment and systems will have estimated gas savings (determined by rates in effect at the time of purchase), that are sufficient to cover the costs of implementing the measures, including finance charges and any program fees not recovered pursuant to subsection (f) of this Section. To assist the gas utility in identifying or approving measures, the utility may consult with the Department of Commerce and Economic Opportunity, as well as with retailers, technicians and installers of gas energy efficiency measures and energy auditors (collectively "vendors").

(2) The gas utility shall issue a request for proposals ("RFP") to lenders for purposes of providing financing to participants to pay for approved measures. The RFP criteria shall include, but not be limited to, the interest rate, origination fees, and credit terms. The utility shall select the winning bidders based on its evaluation of these criteria, with a preference for those bids containing the rates, fees, and terms most favorable to participants.

(3) The utility shall work with the lenders selected pursuant to the RFP process, and with vendors, to establish the terms and processes pursuant to which a participant can purchase eligible gas energy efficiency measures using the financing obtained from the lender. The vendor shall explain and offer the

approved financing packaging to those customers identified in subsection (b) of this Section and shall assist customers in applying for financing. As part of such process, vendors shall also provide to participants information about any other incentives that may be available for the measures.

(4) The lender shall conduct credit checks or undertake other appropriate measures to limit credit risk, and shall review and approve or deny financing applications submitted by customers identified in subsection (b) of this Section. Following the lender's approval of financing and the participant's purchase of the measure or measures, the lender shall forward payment information to the gas utility, and the utility shall add as a separate line item on the participant's utility bill a charge showing the amount due under the program each month.

(5) A loan issued to a participant pursuant to the program shall be the sole responsibility of the participant, and any dispute that may arise concerning the loan's terms, conditions, or charges shall be resolved between the participant and lender. Upon transfer of the property title for the premises at which the participant receives gas service from the utility or the participant's request to terminate service at such premises, the participant shall pay in full its gas utility bill, including all amounts due under the program, provided that this obligation may be modified as provided in subsection (g) of this Section. Amounts due under the program shall be deemed amounts owed for residential and, as appropriate, small commercial gas service.

(6) The gas utility shall remit payment in full to the lender each month on behalf of the participant. In the event a participant defaults on payment of its gas utility bill, the gas utility shall continue to remit all payments due under the program to the lender, and the utility shall be entitled to recover all costs related to a participant's nonpayment through the automatic adjustment clause tariff established pursuant to Section 19-145 of this Act. In addition, the gas utility shall retain a security interest in the measure or measures purchased under the program, and the utility retains its right to disconnect a participant that defaults on the payment of its utility bill.

(7) The total outstanding amount financed under the program shall not exceed \$2.5 million for a gas utility or gas utilities under a single holding company, provided that the gas utility or gas utilities may petition the Commission for an increase in such amount.

(d) A program approved by the Commission shall also include the following criteria and guidelines for such program:

(1) guidelines for financing of measures installed under a program, including, but not limited to, RFP criteria and limits on both individual loan amounts and the duration of the loans;

(2) criteria and standards for identifying and approving measures;

(3) qualifications of vendors that will market or install measures, as well as a methodology for ensuring ongoing compliance with such qualifications;

(4) sample contracts and agreements necessary to implement the measures and program; and

(5) the types of data and information that utilities and vendors participating in the program shall collect for purposes of preparing the reports required under subsection (g) of this Section.

(e) The proposed program submitted by each gas utility shall be consistent with the provisions of this Section that define operational, financial, and billing arrangements between and among program participants, vendors, lenders, and the gas utility.

(f) A gas utility shall recover all of the prudently incurred costs of offering a program approved by the Commission pursuant to this Section, including, but not limited to, all start-up and administrative costs and the costs for program evaluation. All prudently incurred costs under this Section shall be recovered from the residential and small commercial retail customer classes eligible to participate in the program through the automatic adjustment clause tariff established pursuant to Section 8-104 of this Act.

(g) An independent evaluation of a program shall be conducted after 3 years of the program's operation. The gas utility shall retain an independent evaluator who shall evaluate the effects of the measures installed under the program and the overall operation of the program, including, but not limited to, customer eligibility criteria and whether the payment obligation for permanent gas energy efficiency measures that will continue to provide benefits of energy savings should attach to the meter location. As part of the evaluation process, the evaluator shall also solicit feedback from participants and interested stakeholders. The evaluator shall issue a report to the Commission on its findings no later than 4 years after the date on which the program commenced, and the Commission shall issue a report to the Governor and General Assembly including a summary of the information described in this Section as well as its recommendations as to whether the program should be discontinued, continued with modification or modifications or continued without modification, provided that any recommended modifications shall only apply prospectively and to measures not yet installed or financed.

(h) A gas utility offering a Commission-approved program pursuant to this Section shall not be required to comply with any other statute, order, rule, or regulation of this State that may relate to the

offering of such program, provided that nothing in this Section is intended to limit the gas utility's obligation to comply with this Act and the Commission's orders, rules, and regulations, including Part 280 of Title 83 of the Illinois Administrative Code.

(i) The source of a utility customer's gas supply shall not disqualify a customer from participation in the utility's on-bill financing program. Customers of alternative gas suppliers may participate in the program under the same terms and conditions applicable to the utility's supply customers.

(220 ILCS 5/19-145 new)

Sec. 19-145. Automatic adjustment clause tariff; uncollectibles.

(a) A gas utility shall be permitted, at its election, to recover through an automatic adjustment clause tariff the incremental difference between its actual uncollectible amount as set forth in Account 904 in the utility's most recent annual Form 21 ILCC and the uncollectible amount included in the utility's rates for the period reported in such annual Form 21 ILCC. The Commission may, in a proceeding to review a general rate case filed subsequent to the effective date of the tariff established under this Section, prospectively switch, from using the actual uncollectible amount set forth in Account 904 to using net write-offs in such tariff, but only if net write-offs are also used to determine the utility's uncollectible amount in rates. In the event the Commission requires such a change, it shall be made effective at the beginning of the first full calendar year after the new rates approved in such proceeding are first placed in effect and an adjustment shall be made, if necessary, to ensure the change does not result in double-recovery or unrecovered uncollectible amounts for any year. For purposes of this Section, "uncollectible amount" means the expense set forth in Account 904 of the utility's Form 21 ILCC or cost of net write-offs as appropriate. In the event the utility's rates change during the period of time reported in its most recent annual Form 21 ILCC, the uncollectible amount included in the utility's rates during such period of time for purposes of this Section will be a weighted average, based on revenues earned during such period by the utility under each set of rates, of the uncollectible amount included in the utility's rates at the beginning of such period and at the end of such period. This difference may either be a charge or a credit to customers depending on whether the uncollectible amount is more or less than the uncollectible amount then included in the utility's rates.

(b) The tariff may be established outside the context of a general rate case filing, and shall specify the terms of any applicable audit. The Commission shall review and by order approve, or approve as modified, the proposed tariff within 180 days after the date on which it is filed. Charges and credits under the tariff shall be allocated to the appropriate customer class or classes. In addition, customers who do not purchase their gas supply from a gas utility shall not be charged by the utility for uncollectible amounts associated with gas supply provided by the utility to the utility's customers. Upon approval of the tariff, the utility shall, based on the 2008 Form 21 ILCC, apply the appropriate credit or charge based on the full year 2008 amounts for the remainder of the 2010 calendar year. Starting with the 2009 Form 21 ILCC reporting period and each subsequent period, the utility shall apply the appropriate credit or charge over a 12-month period beginning with the June billing period and ending with the May billing period, with the first such billing period beginning June 2010.

(c) The approved tariff shall provide that the utility shall file a petition with the Commission annually, no later than August 31st, seeking initiation of an annual review to reconcile all amounts collected with the actual uncollectible amount in the prior period. As part of its review, the Commission shall verify that the utility collects no more and no less than its actual uncollectible amount in each applicable Form 21 ILCC reporting period. The Commission shall review the prudence and reasonableness of the utility's actions to pursue minimization and collection of uncollectibles which shall include, at a minimum, the 6 enumerated criteria set forth in this Section. The Commission shall determine any required adjustments and may include suggestions for prospective changes in current practices. Nothing in this Section or the implementing tariffs shall affect or alter the gas utility's existing obligation to pursue collection of uncollectibles or the gas utility's right to disconnect service. A utility that has in effect a tariff authorized by this Section shall pursue minimization of and collection of uncollectibles through the following activities, including but not limited to:

- (1) identifying customers with late payments;
- (2) contacting the customers in an effort to obtain payment;
- (3) providing delinquent customers with information about possible options, including payment plans and assistance programs;
- (4) serving disconnection notices;
- (5) implementing disconnections based on the level of uncollectibles; and
- (6) pursuing collection activities based on the level of uncollectibles.

(d) Nothing in this Section shall be construed to require a utility to immediately disconnect service for nonpayment.

Section 15. The Energy Assistance Act is amended by changing Sections 2, 3, and 13 and by adding Section 18 as follows:

(305 ILCS 20/2) (from Ch. 111 2/3, par. 1402)

Sec. 2. Findings and Intent.

(a) The General Assembly finds that:

(1) the health, welfare, and prosperity of the people of the State of Illinois require that all citizens receive essential levels of heat and electric service regardless of economic circumstance;

(2) public utilities and other entities providing such services are entitled to receive proper payment for services actually rendered;

(3) ~~variability of declining~~ Federal low income energy assistance funding necessitates a State response to ensure the continuity and the further development of energy assistance and related policies and programs within Illinois; ~~and~~

(4) energy assistance policies and programs in effect in Illinois have benefited all

Illinois citizens, and should therefore be continued with the modifications provided herein; ~~and~~ -

(5) low-income households are unable to afford essential utility services and other necessities, such as food, shelter, and medical care; the health and safety of those who are unable to afford essential utility services suffer when monthly payments for these services exceed a reasonable percentage of the customer's household income; costs of collecting past due bills and uncollectible balances are reflected in rates paid by all ratepayers; society benefits if essential utility services are affordable and arrearages and disconnections are minimized for those most in need.

(b) Consistent with its findings, the General Assembly declares that it is the policy of the State that:

(1) a comprehensive low income energy assistance policy and program should be established which incorporates income assistance, home weatherization, and other measures to ensure that citizens have access to affordable energy services;

(2) the ability of public utilities and other entities to receive just compensation for providing services should not be jeopardized by this policy;

(3) resources applied in achieving this policy should be coordinated and efficiently utilized through the integration of public programs and through the targeting of assistance; and

(4) the State should utilize all appropriate and available means to fund this program and, to the extent possible, should identify and utilize sources of funding which complement State tax revenues.

(Source: P.A. 94-773, eff. 5-18-06.)

(305 ILCS 20/3) (from Ch. 111 2/3, par. 1403)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(a) the terms defined in Sections 3-101 through 3-121 of The Public Utilities Act have the meanings ascribed to them in that Act;

(b) "Department" means the Department of Commerce and Economic Opportunity ~~Healthcare and Family Services~~;

(c) "energy provider" means any utility, municipal utility, cooperative utility, or any other corporation or individual which provides winter energy services;

(d) "winter" means the period from November 1 of any year through April 30 of the following year.

(Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06; 95-331, eff. 8-21-07.)

(305 ILCS 20/13)

(Section scheduled to be repealed on December 31, 2013)

Sec. 13. Supplemental Low-Income Energy Assistance Fund.

(a) The Supplemental Low-Income Energy Assistance Fund is hereby created as a special fund in the State Treasury. The Supplemental Low-Income Energy Assistance Fund is authorized to receive moneys from voluntary donations from individuals, foundations, corporations, and other sources, moneys received pursuant to Section 17, and, by statutory deposit, the moneys collected pursuant to this Section. The Fund is also authorized to receive voluntary donations from individuals, foundations, corporations, and other sources, as well as contributions made in accordance with Section 507MM of the Illinois Income Tax Act. Subject to appropriation, the Department shall use moneys from the Supplemental Low-Income Energy Assistance Fund for payments to electric or gas public utilities, municipal electric or gas utilities, and electric cooperatives on behalf of their customers who are participants in the program authorized by ~~Sections 4 and 18~~ ~~Section 4~~ of this Act, for the provision of weatherization services and for administration of the Supplemental Low-Income Energy Assistance Fund. The yearly expenditures

for weatherization may not exceed 10% of the amount collected during the year pursuant to this Section. The yearly administrative expenses of the Supplemental Low-Income Energy Assistance Fund may not exceed 10% of the amount collected during that year pursuant to this Section.

(b) Notwithstanding the provisions of Section 16-111 of the Public Utilities Act but subject to subsection (k) of this Section, each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois shall, effective January 1, 1998, assess each of its customer accounts a monthly Energy Assistance Charge for the Supplemental Low-Income Energy Assistance Fund. The delivering public utility, municipal electric or gas utility, or electric or gas cooperative for a self-assessing purchaser remains subject to the collection of the fee imposed by this Section. The monthly charge shall be as follows:

- (1) ~~\$0.48~~ ~~\$0.40~~ per month on each account for residential electric service;
- (2) ~~\$0.48~~ ~~\$0.40~~ per month on each account for residential gas service;
- (3) ~~\$4.80~~ ~~\$4~~ per month on each account for non-residential electric service which had less than 10 megawatts of peak demand during the previous calendar year;
- (4) ~~\$4.80~~ ~~\$4~~ per month on each account for non-residential gas service which had distributed to it less than 4,000,000 therms of gas during the previous calendar year;
- (5) ~~\$360~~ ~~\$300~~ per month on each account for non-residential electric service which had 10 megawatts or greater of peak demand during the previous calendar year; and
- (6) ~~\$360~~ ~~\$300~~ per month on each account for non-residential gas service which had 4,000,000 or more therms of gas distributed to it during the previous calendar year.

The incremental change to such charges imposed by this amendatory Act of the 96th General Assembly shall not (i) be used for any purpose other than to directly assist customers and (ii) be applicable to utilities serving less than 100,000 customers in Illinois on January 1, 2009.

In addition, electric and gas utilities have committed, and shall contribute, a one-time payment of \$22 million to the Fund, within 10 days after the effective date of the tariffs established pursuant to Sections 16-111.8 and 19-145 of the Public Utilities Act to be used for the Department's cost of implementing the programs described in Section 18 of this amendatory Act of the 96th General Assembly, the Arrearage Reduction Program described in Section 18, and the programs described in Section 8-105 of the Public Utilities Act. If a utility elects not to file a rider within 90 days after the effective date of this amendatory Act of the 96th General Assembly, then the contribution from such utility shall be made no later than February 1, 2010.

(c) For purposes of this Section:

- (1) "residential electric service" means electric utility service for household purposes delivered to a dwelling of 2 or fewer units which is billed under a residential rate, or electric utility service for household purposes delivered to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit;
- (2) "residential gas service" means 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;
- (3) "non-residential electric service" means electric utility service which is not residential electric service; and
- (4) "non-residential gas service" means gas utility service which is not residential gas service.

(d) Within 30 days after the effective date of this amendatory Act of the 96th General Assembly At least 45 days prior to the date on which it must begin assessing Energy Assistance Charges, each public utility engaged in the delivery of electricity or the distribution of natural gas shall file with the Illinois Commerce Commission tariffs incorporating the Energy Assistance Charge in other charges stated in such tariffs, which shall become effective no later than the beginning of the first billing cycle following such filing.

(e) The Energy Assistance Charge assessed by electric and gas public utilities shall be considered a charge for public utility service.

(f) By the 20th day of the month following the month in which the charges imposed by the Section were collected, each public utility, municipal utility, and electric cooperative shall remit to the Department of Revenue all moneys received as payment of the Energy Assistance Charge on a return prescribed and furnished by the Department of Revenue showing such information as the Department of Revenue may reasonably require; provided, however, that a utility offering an Arrearage Reduction Program pursuant to Section 18 of this Act shall be entitled to net those amounts necessary to fund and

recover the costs of such Program as authorized by that Section that is no more than the incremental change in such Energy Assistance Charge authorized by this amendatory Act of the 96th General Assembly. If a customer makes a partial payment, a public utility, municipal utility, or electric cooperative may elect either: (i) to apply such partial payments first to amounts owed to the utility or cooperative for its services and then to payment for the Energy Assistance Charge or (ii) to apply such partial payments on a pro-rata basis between amounts owed to the utility or cooperative for its services and to payment for the Energy Assistance Charge.

(g) The Department of Revenue shall deposit into the Supplemental Low-Income Energy Assistance Fund all moneys remitted to it in accordance with subsection (f) of this Section; provided, however, that the amounts remitted by each utility shall be used to provide assistance to that utility's customers. The utilities shall coordinate with the Department to establish an equitable and practical methodology for implementing this subsection (g) beginning with the 2010 program year.

(h) (Blank).

On or before December 31, 2002, the Department shall prepare a report for the General Assembly on the expenditure of funds appropriated from the Low-Income Energy Assistance Block Grant Fund for the program authorized under Section 4 of this Act.

(i) The Department of Revenue may establish such rules as it deems necessary to implement this Section.

(j) The Department of Commerce and Economic Opportunity Healthcare and Family Services may establish such rules as it deems necessary to implement this Section.

(k) The charges imposed by this Section shall only apply to customers of municipal electric or gas utilities and electric or gas cooperatives if the municipal electric or gas utility or electric or gas cooperative makes an affirmative decision to impose the charge. If a municipal electric or gas utility or an electric cooperative makes an affirmative decision to impose the charge provided by this Section, the municipal electric or gas utility or electric cooperative shall inform the Department of Revenue in writing of such decision when it begins to impose the charge. If a municipal electric or gas utility or electric or gas cooperative does not assess this charge, the Department may not use funds from the Supplemental Low-Income Energy Assistance Fund to provide benefits to its customers under the program authorized by Section 4 of this Act.

In its use of federal funds under this Act, the Department may not cause a disproportionate share of those federal funds to benefit customers of systems which do not assess the charge provided by this Section.

This Section is repealed effective December 31, 2013 unless renewed by action of the General Assembly. The General Assembly shall consider the results of the evaluations described in Section 8 in its deliberations.

(Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06; 94-817, eff. 5-30-06; 95-48, eff. 8-10-07; 95-331, eff. 8-21-07.)

(305 ILCS 20/18 new)

Sec. 18. Financial assistance: payment plans.

(a) The Percentage of Income Payment Plan (PIPP or PIP Plan) is hereby created as a statewide bill payment assistance program for low-income residential customers of utilities serving more than 100,000 retail customers as of January 1, 2009. The PIP Plan will:

(1) bring participants' gas and electric bills into the range of affordability;

(2) provide incentives for participants to make timely payments;

(3) encourage participants to reduce usage and participate in conservation and energy efficiency measures that reduce the customer's bill and payment requirements; and

(4) identify participants whose homes are most in need of weatherization.

(b) For purposes of this Section:

(1) "LIHEAP" means the energy assistance program established under the Illinois Energy Assistance Act and the Low-Income Home Energy Assistance Act of 1981.

(2) "Plan participant" is an eligible participant who is also eligible for the PIPP and who will receive either a percentage of income payment credit under the PIPP criteria set forth in this Act or a benefit pursuant to Section 4 of this Act. Plan participants are a subset of eligible participants.

(3) "Pre-program arrears" means the amount a plan participant owes for gas or electric service at the time the participant is determined to be eligible for the PIPP or the program set forth in Section 4 of this Act.

(4) "Eligible participant" means any person who has applied for, been accepted and is receiving residential service from a gas or electric utility and who is also eligible for LIHEAP.

(c) The PIP Plan shall be administered as follows:

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(1) The Department shall coordinate with Local Administrative Agencies (LAAs), to determine eligibility for the Illinois Low Income Home Energy Assistance Program (LIHEAP) pursuant to the Energy Assistance Act, provided that eligible income shall be no more than 150% of the poverty level. Applicants will be screened to determine whether the applicant's projected payments for electric service or natural gas service over a 12-month period exceed the criteria established in this Section. To maintain the financial integrity of the program, the Department may limit eligibility to households with income below 125% of the poverty level.

(2) The Department shall establish the percentage of income formula to determine the amount of a monthly credit, not to exceed \$150 per month per household, not to exceed \$1,800 annually, that will be applied to PIP Plan participants' utility bills based on the portion of the bill that is the responsibility of the participant provided that the percentage shall be no more than a total of 6% of the relevant income for gas and electric utility bills combined, but in any event no less than \$10 per month, unless the household does not pay directly for heat, in which case its payment shall be 2.4% of income but in any event no less than \$5 per month. The Department may establish a minimum credit amount based on the cost of administering the program and may deny credits to otherwise eligible participants if the cost of administering the credit exceeds the actual amount of any monthly credit to a participant. If the participant takes both gas and electric service, 66.67% of the credit shall be allocated to the entity that provides the participant's primary energy supply for heating. Each participant shall enter into a levelized payment plan for, as applicable, gas and electric service and such plans shall be implemented by the utility so that a participant's usage and required payments are reviewed and adjusted regularly, but no more frequently than quarterly. Nothing in this Section is intended to prohibit a customer, who is otherwise eligible for LIHEAP, from participating in the program described in Section 4 of this Act. Eligible participants who receive such a benefit shall be considered plan participants and shall be eligible to participate in the Arrearage Reduction Program described in item (5) of this subsection (c).

(3) The Department shall remit, through the LAAs, to the utility or participating alternative supplier that portion of the plan participant's bill that is not the responsibility of the participant. In the event that the Department fails to timely remit payment to the utility, the utility shall be entitled to recover all costs related to such nonpayment through the automatic adjustment clause tariffs established pursuant to Section 16-111.8 and Section 19-145 of the Public Utilities Act. For purposes of this item (3) of this subsection (c), payment is due on the date specified on the participant's bill. The Department, the Department of Revenue and LAAs shall adopt processes that provide for the timely payment required by this item (3) of this subsection (c).

(4) A plan participant is responsible for all actual charges for utility service in excess of the PIPP credit. Pre-program arrears that are included in the Arrearage Reduction Program described in item (5) of this subsection (c) shall not be included in the calculation of the levelized payment plan. Emergency or crisis assistance payments shall not affect the amount of any PIPP credit to which a participant is entitled.

(5) Electric and gas utilities subject to this Section shall implement an Arrearage Reduction Program (ARP) for plan participants as follows: for each month that a plan participant timely pays his or her utility bill, the utility shall apply a credit to a portion of the participant's pre-program arrears, if any, equal to one-twelfth of such arrearage provided that the total amount of arrearage credits shall equal no more than \$1,000 annually for each participant for gas and no more than \$1,000 annually for each participant for electricity. In the third year of the PIPP, the Department, in consultation with the Policy Advisory Council established pursuant to Section 5 of this Act, shall determine by rule an appropriate per participant total cap on such amounts, if any. Those plan participants participating in the ARP shall not be subject to the imposition of any additional late payment fees on pre-program arrears covered by the ARP. In all other respects, the utility shall bill and collect the monthly bill of a plan participant pursuant to the same rules, regulations, programs and policies as applicable to residential customers generally. Participation in the Arrearage Reduction Program shall be limited to the maximum amount of funds available as set forth in subsection (f) of Section 13 of this Act. In the event any donated funds under Section 13 of this Act are specifically designated for the purpose of funding the ARP, the Department shall remit such amounts to the utilities upon verification that such funds are needed to fund the ARP.

(6) The Department may terminate a plan participant's eligibility for the PIP Plan upon notification by the utility that the participant's monthly utility payment is more than 45 days past due.

(7) The Department, in consultation with the Policy Advisory Council, may adjust the number of PIP Plan participants annually, if necessary, to match the availability of funds from LIHEAP.

(8) The Department shall fully implement the PIPP at the earliest possible date it is able to effectively administer the PIPP. Within 90 days of the effective date of this amendatory Act of the 96th

General Assembly, the Department shall, in consultation with utility companies, participating alternative suppliers, LAAs and the Illinois Commerce Commission (Commission), issue a detailed implementation plan which shall include detailed testing protocols and analysis of the capacity for implementation by the LAAs and utilities. Such consultation process also shall address how to implement the PIPP in the most cost-effective and timely manner, and shall identify opportunities for relying on the expertise of utilities, LAAs and the Commission. Following the implementation of the testing protocols, the Department shall issue a written report on the feasibility of full or gradual implementation. The PIPP shall be fully implemented by September 1, 2011, but may be phased in prior to that date.

(9) As part of the screening process established under item (1) of this subsection (c), the Department and LAAs shall assess whether any energy efficiency or demand response measures are available to the plan participant at no cost, and if so, the participant shall enroll in any such program for which he or she is eligible. The LAAs shall assist the participant in the applicable enrollment or application process.

(10) Each alternative retail electric and gas supplier serving residential customers shall elect whether to participate in the PIPP or ARP described in this Section. Any such supplier electing to participate in the PIPP shall provide to the Department such information as the Department may require, including, without limitation, information sufficient for the Department to determine the proportionate allocation of credits between the alternative supplier and the utility. If a utility in whose service territory an alternative supplier serves customers contributes money to the ARP fund which is not recovered from ratepayers, then an alternative supplier which participates in ARP in that utility's service territory shall also contribute to the ARP fund in an amount that is commensurate with the number of alternative supplier customers who elect to participate in the program.

(d) The Department, in consultation with the Policy Advisory Council, shall develop and implement a program to educate customers about the PIP Plan and about their rights and responsibilities under the percentage of income component. The Department, in consultation with the Policy Advisory Council, shall establish a process that LAAs shall use to contact customers in jeopardy of losing eligibility due to late payments. The Department shall ensure that LAAs are adequately funded to perform all necessary educational tasks.

(e) The PIPP shall be administered in a manner which ensures that credits to plan participants will not be counted as income or as a resource in other means-tested assistance programs for low-income households or otherwise result in the loss of federal or state assistance dollars for low-income households.

(f) In order to ensure that implementation costs are minimized, the Department and utilities shall work together to identify cost-effective ways to transfer information electronically and to employ available protocols that will minimize their respective administrative costs as follows:

(1) The Commission may require utilities to provide such information on customer usage and billing and payment information as required by the Department to implement the PIP Plan and to provide written notices and communications to plan participants.

(2) Each utility and participating alternative supplier shall file annual reports with the Department and the Commission that cumulatively summarize and update program information as required by the Commission's rules. The reports shall track implementation costs and contain such information as is necessary to evaluate the success of the PIPP.

(3) The Department and the Commission shall have the authority to promulgate rules and regulations necessary to execute and administer the provisions of this Section.

(g) Each utility shall be entitled to recover reasonable administrative and operational costs incurred to comply with this Section from the Supplemental Low Income Energy Assistance Fund. The utility may net such costs against monies it would otherwise remit to the Funds, and each utility shall include in the annual report required under subsection (f) of this Section an accounting for the funds collected.

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. Inseparability. The provisions of this amendatory Act of the 96th General Assembly are mutually dependent and inseparable. If any provision or its application to any person or circumstance is held invalid, then this entire Act is invalid. It is the further legislative intent that in such event all other Acts shall not be affected and shall continue to be valid.

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

AMENDMENT NO. 3 TO SENATE BILL 1918

AMENDMENT NO. 3. Amend Senate Bill 1918, AS AMENDED, with reference to page and line numbers of House Amendment No. 2, on page 38, line 20, by replacing "Classification code" with "code number that is 22111 or any such code"; and

on page 107, line 7, by replacing "statewide" with "mandatory".

Under the rules, the foregoing **Senate Bill No. 1918**, with House Amendments numbered 1, 2 and 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1919

A bill for AN ACT concerning safety.

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

House Amendment No. 1 to SENATE BILL NO. 1919

House Amendment No. 2 to SENATE BILL NO. 1919

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1919

AMENDMENT NO. 1. Amend Senate Bill 1919 on page 1, after line 21, by inserting the following:

"Unused medication" means any unopened, expired, or excess medication that has been dispensed for patient or resident care and that is in a solid form. The term includes pills, tablets, capsules, and caplets. For long-term care facilities licensed under the Nursing Home Care Act, "unused medication" does not include any Schedule II controlled substance under federal law in any form, until such time as the federal Drug Enforcement Administration adopts regulations that permit these facilities to dispose of controlled substances in a manner consistent with this Section."; and

on page 1, line 22, by replacing "No" with "Except for medications contained in intravenous fluids, syringes, or transdermal patches, no".

AMENDMENT NO. 2 TO SENATE BILL 1919

AMENDMENT NO. 2. Amend Senate Bill 1919, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Safe Pharmaceutical Disposal Act.

Section 5. Definitions. In this Act:

"Health care institution" means any public or private institution or agency licensed or certified by State law to provide health care. The term includes hospitals, nursing homes, residential health care facilities, home health care agencies, hospice programs operating in this State, institutions, facilities, or agencies that provide services to persons with mental health illnesses, and institutions, facilities, or agencies that provide services for persons with developmental disabilities.

"Public wastewater collection system" means any wastewater collection system regulated by the Environmental Protection Agency.

"Unused medication" means any unopened, expired, or excess medication that has been dispensed for patient or resident care and that is in a solid form. The term includes pills, tablets, capsules, and caplets. For long-term care facilities licensed under the Nursing Home Care Act, "unused medication" does not include any Schedule II controlled substance under federal law in any form, until such time as the federal Drug Enforcement Administration adopts regulations that permit these facilities to dispose of controlled

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substances in a manner consistent with this Act.

Section 10. Disposal of unused medications prohibited.

(a) Except for medications contained in intravenous fluids, syringes, or transdermal patches, no health care institution, nor any employee, staff person, contractor, or other person acting under the direction or supervision of a health care institution, may discharge, dispose of, flush, pour, or empty any unused medication into a public wastewater collection system or septic system.

(b) A violation of this Section is a petty offense subject to a fine of \$500. Fines collected under this Act from facilities licensed under the Nursing Home Care Act shall be deposited into the Long Term Care Monitor/Receiver Fund. Fines collected from all other health care institutions under this Act shall be deposited into the Environmental Protection Trust Fund.

Section 15. Health care institution protocols. Nursing homes, residential health care facilities, home health care agencies, hospice programs operating in this State, institutions, facilities, or agencies that provide services to persons with mental health illnesses, and institutions, facilities, or agencies that provide services for persons with developmental disabilities shall modify their written medication protocols to be consistent with the requirements of this Act.

Section 20. Oversight. Each agency having regulatory oversight responsibility for a type of health care institution as defined in this Act shall be responsible for ensuring those institutions' compliance with this Act.

Section 99. Effective date. This Act takes effect January 1, 2010."

Under the rules, the foregoing **Senate Bill No. 1919**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1925

A bill for AN ACT concerning regulation.

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

House Amendment No. 1 to SENATE BILL NO. 1925

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1925

AMENDMENT NO. 1. Amend Senate Bill 1925 by replacing everything after the enacting clause with the following:

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

(5 ILCS 80/4.20)

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

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

~~The Auction License Act.~~

The Illinois Architecture Practice Act of 1989.

~~The Illinois Landscape Architecture Act of 1989.~~

The Illinois Professional Land Surveyor Act of 1989.

The Land Sales Registration Act of 1999.

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

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The Structural Engineering Practice Act of 1989.

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

The Medical Practice Act of 1987.

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

(5 ILCS 80/4.30 new)

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

The Auction License Act.

The Illinois Landscape Architecture Act of 1989.

Section 10. The Illinois Landscape Architecture Act of 1989 is amended by changing Sections 1, 3, 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 17, 18, 18.1, 19, 21, 22.1, 23, 24, 25, 28, and 31 and by adding Sections 3.5, 6.5, 11.5, and 12.5 as follows:

(225 ILCS 315/1) (from Ch. 111, par. 8101)

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

Sec. 1. Purpose. It is the purpose of this Act to provide for the licensure ~~registration~~ of landscape architects.

(Source: P.A. 86-932.)

(225 ILCS 315/3) (from Ch. 111, par. 8103)

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

Sec. 3. Definitions. As used in this Act:

(a) "Board" means the Illinois Landscape Architect Registration Board.

(b) "Department" means the Illinois Department of Financial and Professional Regulation.

(c) "~~Secretary Director~~" means the Secretary Director of Financial and Professional Regulation.

(d) "Landscape Architect" or "Landscape Architect Design Professional" means a person who, based on education, experience, and examination ~~or both~~ in the field of landscape architecture, is licensed eligible to register under this Act.

(e) "Landscape Architecture" means the art and science of arranging land, together with the spaces and objects upon it, for the purpose of creating a safe, efficient, healthful, and aesthetically pleasing physical environment for human use and enjoyment, as performed by landscape architects.

(f) "Landscape Architectural Practice" means the offering or furnishing of professional services in connection with a landscape architecture project that do not require the seal of an architect, land surveyor, professional engineer, or structural engineer. Such services may include including, but are not limited to, providing preliminary studies; developing design concepts; planning for the relationships of physical improvements and intended uses of the site; establishing form and aesthetic elements; analyzing and providing for life safety requirements; developing those construction details on the site which are exclusive of any building or structure and do not require the seal of an engineer, architect, or structural engineer; preparing and coordinating technical submissions; and conducting site observation of a landscape architecture project.

(g) "Person" means any person, sole proprietorship, or entity such as a partnership, professional service corporation, or corporation.

(Source: P.A. 86-932.)

(225 ILCS 315/3.5 new)

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

Sec. 3.5. References.

(a) References in this Act (i) to the Department of Professional Regulation are deemed, in appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(b) References to registration in the rules promulgated pursuant to this Act shall be deemed, in appropriate contexts, to be references to licensure.

(225 ILCS 315/4) (from Ch. 111, par. 8104)

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

Sec. 4. Use of title. ~~No After the effective date of this Act, no person may represent himself to be a landscape architect, or use the title "landscape architect", "registered landscape architect", "licensed landscape architect", "landscape architect design professional", or any other title which includes the words "landscape architect" or "landscape architecture", unless licensed ~~registered~~~~ under this Act.

(Source: P.A. 86-932.)

(225 ILCS 315/5) (from Ch. 111, par. 8105)

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

Sec. 5. Practice without license. Nothing in this Act prevents any person from being engaged in the practice of landscape architecture so long as he or she does not represent himself or herself as, or use the titles of, "landscape architect", ~~or "registered landscape architect"~~, ~~"licensed landscape architect"~~, "landscape architecture", "landscape architect design professional", or "landscape architecture design professional".

(Source: P.A. 86-932.)

(225 ILCS 315/6) (from Ch. 111, par. 8106)

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

Sec. 6. Issuance of Certificate. Whenever an applicant for ~~licensure registration~~ has complied with the provisions of Section 11 of this Act, the Department shall issue a certificate of ~~licensure registration~~ to the applicant as a ~~licensed registered~~ landscape architect subject to the provisions of this Act.

(Source: P.A. 86-932.)

(225 ILCS 315/6.5 new)

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

Sec. 6.5. Display of license: seal.

(a) Every holder of a landscape architect license shall display his or her certificate of licensure in a conspicuous place in his or her principal office. A certificate of registration issued under this Act that is in good standing on the effective date of this amendatory Act of the 96th General Assembly shall be deemed to be a certificate of licensure and the Department shall not be required to issue a new certificate of licensure to replace it.

(b) Every landscape architect shall have a seal, approved by the Department and the Board, which shall contain the name of the landscape architect, the number of his or her license, and the legend "Landscape Architect, State of Illinois" and other words or figures as the Department deems necessary. Plans, specifications, and reports related to landscape architectural practice and prepared by the landscape architect, or under his or her supervision, shall be stamped with his or her seal when filed. Notwithstanding the requirements of this Section, an architect, land surveyor, professional engineer, or structural engineer shall be permitted to affix his or her professional seal or stamp to any plans, specifications, and reports prepared by or under his or her responsible control in connection with the incidental practice of landscape architecture.

(c) A landscape architect who endorses a document with his or her seal while his or her license is suspended, expired, or has been revoked, who has been placed on probation or inactive status, or who endorses a document that the landscape architect did not actually prepare or supervise the preparation of, is subject to the penalties prescribed in Section 18.1.

(225 ILCS 315/7) (from Ch. 111, par. 8107)

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

Sec. 7. ~~Current~~ Address of Record. Every landscape architect shall maintain a current address with the Department. It is the duty of every applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department shall be the responsibility of the registrant to notify the Department in writing of any change of address.

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/8) (from Ch. 111, par. 8108)

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

Sec. 8. Powers and Duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties vested by this Act.

(b) The Department shall promulgate rules and regulations consistent with the provisions of this Act for the administration and enforcement thereof which shall include standards and criteria for ~~licensure registration~~ and for the payment of fees connected therewith. The Department shall prescribe forms required for the administration of this Act.

(c) The Department shall consult the Landscape Architecture Board in promulgating rules and regulations. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the Board's response and any recommendations made therein. The Department shall notify the Board in writing of the explanation for any deviations from the Board's recommendations and response.

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

(e) The Department shall issue a quarterly report to the Board setting forth the status of all complaints received by the Department related to ~~the landscape architectural architecture~~ practice.

(f) The Department shall maintain membership and representation in the national body composed of state licensing and testing boards for landscape architects.

(Source: P.A. 86-932.)

(225 ILCS 315/9) (from Ch. 111, par. 8109)

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

Sec. 9. Composition, qualification, and terms of Board.

(a) ~~The Secretary Director~~ shall appoint a Board consisting of 5 persons who are residents of the State of Illinois and who shall be appointed by and shall serve in an advisory capacity to the ~~Secretary Director~~. Four persons shall be individuals experienced in landscape architectural work who would qualify upon application to the Department under the provisions of this Act to be ~~licensed registered~~ landscape architects, one of whom shall be a tenured member of the landscape architecture faculty of a ~~university located within this State that maintains an accredited school of landscape architecture the~~ University of Illinois and 3 of whom shall have engaged in landscape architectural work for at least 5 years. The fifth person shall be a public member, not an employee of the State of Illinois, who is not licensed or registered under this Act or a similar Act of another jurisdiction. The public member may not be elected or appointed as chairman of the Board or serve in such capacity in any other manner.

(b) Members of the Board shall serve 5 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term which would cause that member's cumulative service on the Board to be longer than 10 years. No member who is an initial appointment to the Board shall be reappointed to the Board for a term which would cause that member's cumulative service on the Board to be longer than 13 years. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Initial terms shall begin upon the effective date of this Act.

(c) The ~~Secretary Director~~ may remove any member of the Board for cause, which may include without limitation a member who does not attend 2 consecutive meetings.

(d) The ~~Secretary Director~~ shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of ~~applicants candidates and licensees registrants~~ under this Act.

(e) ~~Three members A quorum~~ of the Board shall ~~constitute a quorum consist of a majority of members currently appointed. A majority vote of the quorum is required for Board board~~ decisions.

(f) The Board shall annually elect a chairperson and vice chairperson, both of whom shall be licensed landscape architects.

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/11) (from Ch. 111, par. 8111)

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

Sec. 11. ~~Licensure Registration~~ Qualifications.

(a) Every person applying to the Department for ~~licensure registration~~ shall do so on forms approved by the Department and shall pay the required fee. Every person applying to the Department for ~~licensure registration~~ shall submit, with his application, satisfactory evidence that the person holds an approved professional degree in landscape architecture from an approved and accredited program, as such terms are defined by the rules and regulations of the Department, and that he has had such practical experience in landscape architectural work as shall be required by the rules and regulations of the Department. ~~Every In lieu of evidence of any approved professional degree in landscape architecture, the applicant may submit satisfactory evidence of such other education or experience as shall be required by the rules and regulations of the Department; provided, however, that after January 1, 1993 every applicant for initial licensure registration~~ must have an approved professional degree. If an applicant is qualified the Department shall, by means of a written examination, examine the applicant on such technical and professional subjects as shall be required by the rules and regulations of the Department.

(b) The Department may exempt from such written examination an applicant who holds a certificate of qualification issued by the National Council of Landscape Architecture Registration Boards, or who holds a registration or license in another state which has equivalent or substantially equivalent requirements as the State of Illinois.

(c) The Department shall adopt rules determining requirements for practical training and education. The Department may also adopt the examinations and recommended grading procedures of the National Council of Landscape Architectural Registration Boards and the accreditation procedures of the Landscape Architectural Accrediting Board. The Department shall issue a certificate of ~~licensure registration~~ to each applicant who satisfies the requirements set forth in this Section. Such ~~licensure registration~~ shall be effective upon issuance.

(d) If an applicant neglects, fails without an approved excuse, or refuses to take an examination or

fails to pass an examination to obtain a certificate of ~~licensure registration~~ under this Act within 3 years after filing the application, the application shall be denied. However, such applicant may thereafter submit a new application accompanied by the required fee.

(e) For a period of 2 years after the effective date of this amendatory Act of the 96th General Assembly, persons demonstrating to the Department that they have been engaged in landscape architectural practice for a period of 10 years and have an accredited degree and license in urban or regional planning, architecture, or civil engineering are eligible to achieve licensure through examination. Any person who has been engaged in the practice of landscape architecture prior to the effective date of this Act, shall, upon application within 2 years from the effective date of this Act and upon payment of the required current registration fee and application fee, be issued registration without examination upon furnishing to the Department satisfactory proof that he was so engaged prior to such date. The Director, through the Board, shall accept as satisfactory evidence of the competency and qualifications of the applicant for registration the following:

(1) A diploma of graduation or satisfactory completion certificate from a college, school, or university offering an accredited program in landscape architecture, together with evidence of at least 2 years of actual, practical experience in landscape architectural work of a grade and character acceptable to the Board; or

(2) Evidence that the applicant has a total of at least 7 years of actual, practical experience in landscape architectural work of a grade and character acceptable to the Board and has been actually engaged in the active practice of landscape architecture for not less than 4 years immediately prior to the effective date of this Act.

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/11.5 new)

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

Sec. 11.5. Professional liability.

(a) Any individual licensed under this Act as a landscape architect is liable for his or her negligent or willful acts, errors, and omissions and any shareholder, member, or partner of any entity that provides landscape architecture services through an individual licensed under this Act is liable for the negligent or willful acts, errors, and omissions of the employees, members, and partners of the entity. Eligible claims of liability may be covered under a qualifying policy of professional liability insurance, as set forth in subsection (b) of this Section, maintained by an individual or entity.

(b) A qualifying policy of professional liability insurance must insure an individual or entity against liability imposed upon it by law for damages arising out of the negligent acts, errors, and omissions of the individual or of the licensed and unlicensed employees, members, and partners of the entity. The policy may exclude coverage of the following:

(1) a dishonest, fraudulent, criminal, or malicious act or omission of the insured individual or entity or any stockholder, employee, member, or partner of the insured entity;

(2) the conducting of a business enterprise that is not landscape architectural practice by the insured individual or entity;

(3) the conducting of a business enterprise in which the insured individual or entity may be a partner or that may be controlled, operated, or managed by the individual or entity in its own or in a fiduciary capacity, including without limitation the ownership, maintenance, or use of property;

(4) bodily injury, sickness, disease, or death of a person; or

(5) damage to or destruction of tangible property owned by the insured individual or entity.

The policy may include any other reasonable provisions with respect to policy periods, territory, claims, conditions, and ministerial matters.

(225 ILCS 315/12.5 new)

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

Sec. 12.5. Continuing education. The Department may adopt rules of continuing education for persons licensed under this Act. The Department shall consider the recommendations of the Board in establishing the guidelines for the continuing education requirements. Rules adopted under this Section apply to any person seeking renewal or restoration of licensure under this Act. The continuing education shall consist of at least 6 hours per year and may include relevant courses offered in various formats or mediums.

(225 ILCS 315/13) (from Ch. 111, par. 8113)

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

Sec. 13. Inactive Status.

(a) Any landscape architect who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license registration on an inactive status and shall be excused

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from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(b) Any person whose license has been expired for more than 3 years 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, including evidence certifying to active practice in another jurisdiction, and by paying the required restoration fee.

(c) Any landscape architect whose ~~license registration~~ is in an inactive status, has been suspended or revoked, or has expired shall not represent himself or herself to be a landscape architect or use the title "landscape architect", "registered landscape architect", "licensed landscape architect", or any other title which includes the words "landscape architect" or "landscape architecture".

(Source: P.A. 86-932.)

(225 ILCS 315/15) (from Ch. 111, par. 8115)

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

Sec. 15. Disposition of funds. All of the fees collected pursuant to this Act shall be deposited in the General Professions Dedicated Fund.

On January 1, 2000 the State Comptroller shall transfer the balance of the monies in the Landscape Architects' Administration and Investigation Fund into the General Professions Dedicated Fund. Amounts appropriated for fiscal year 2000 out of the Landscape Architects' Administration and Investigation Fund may be paid out of the General Professions Dedicated Fund.

The monies deposited in the General Professions Dedicated Fund may be used for the expenses of the Department in the administration of this Act.

Moneys from the Fund may also be used for direct and allocable indirect costs related to the public purposes of the Department of Financial and Professional Regulation. Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized by Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

(Source: P.A. 91-239, eff. 1-1-00; 91-255, eff. 12-30-99; 92-16, eff. 6-28-01.)

(225 ILCS 315/16) (from Ch. 111, par. 8116)

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

Sec. 16. Roster. The Department shall maintain a roster of the names and addresses of all licensed registered landscape architects. This roster shall be available upon written request and payment of the required fee.

(Source: P.A. 86-932.)

(225 ILCS 315/17) (from Ch. 111, par. 8117)

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

Sec. 17. Advertising. Any person licensed registered under this Act may advertise the availability of professional services in the public media or on the premises where such professional services are rendered provided that such advertising is truthful and not misleading.

(Source: P.A. 86-932.)

(225 ILCS 315/18) (from Ch. 111, par. 8118)

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

Sec. 18. Violation; injunction; cease and desist order.

(a) If any person violates the provisions 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 and 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. 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 hold himself or herself out as a "landscape architect", "licensed landscape architect", or "registered landscape architect", or use any other title that includes the words "landscape architect" or "landscape architecture" without being licensed registered under the provisions of this Act, then any licensed registered landscape architect, 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.

(c) Whoever holds himself or herself out as a "landscape architect", "licensed landscape architect", or a "registered landscape architect", or uses any other title that includes the words "landscape architect" or "landscape architecture" in this State without being licensed under this Act registered for that purpose shall be guilty of a Class A misdemeanor, and for each subsequent conviction shall be guilty of a Class 4 felony.

(d) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow the person at least 7 days from the date of the rule to file an answer that is satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(Source: P.A. 88-363.)

(225 ILCS 315/18.1)

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

Sec. 18.1. Grounds for Discipline.

(a) The Department may refuse to issue or ~~to~~ renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as deemed appropriate including the impositions of fines ~~the Department considers appropriate, including the issuance of fines~~ not to exceed ~~\$1,000~~ \$10,000 for each violation, ~~as the Department may deem proper~~ with regard to any license for any one or ~~combination~~ more of the following:

- (1) Material misstatement in furnishing information to the Department or to any other State agency.
- (2) Negligent or intentional disregard of this Act, or violation of any rules under this Act.
- (3) Conviction of or plea of guilty or nolo contendere to any crime under the laws of the United States or any state or territory thereof that is a felony, or that is a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession.
- (4) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act or its rules.
- (5) Professional incompetence or gross negligence in the rendering of landscape architectural services.
- (6) Aiding or assisting another person in violating any provision of this Act or any rules.
- (7) Failing to provide information within 60 days in response to a written request made by the Department.
- (8) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public and violating the rules of professional conduct adopted by the Department.
- (9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in an inability to practice with reasonable skill, judgment, or safety.
- (10) Discipline by another jurisdiction, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.
- (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 service not actually rendered.
- (12) A finding by the Board that the licensee, after having the license placed on probationary status, has violated the terms of probation.
- (12.5) A finding by the Board that the licensee has failed to pay a fine imposed by the Department.
- (13) Abandonment of a client.
- (14) Willfully filing false reports relating to a licensee's practice, including but not limited to, false records filed with federal or State agencies or departments.
- (15) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.
- (16) Physical or mental disability, including deterioration through the aging process or loss of abilities and skills that results in the inability to practice the profession with reasonable judgment, skill, or safety.
- (17) Solicitation of professional services by using false or misleading advertising.
- (18) Failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act

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administered by the Illinois Department of Revenue or any successor agency or the Internal Revenue Service or any successor agency.

(b) Any fines imposed under this Section shall not exceed ~~\$10,000~~ ~~\$1,000~~ for each violation.

(c) The determination by a court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in an automatic suspension of his or her license. The suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the ~~Secretary~~ ~~Director~~ that the licensee be allowed to resume professional practice.

(d) In enforcing this Section, the Board, upon a showing of a possible violation, may compel a person ~~licensed~~ ~~registered~~ under this Act or who has applied for ~~licensure~~ ~~registration~~ 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 shall be those specifically designated by the Board. The Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the ~~licensee~~ ~~registrant~~ or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the ~~licensee~~ ~~registrant~~ or applicant and the examining physician. The person 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 person to submit to a mental or physical examination when directed shall be grounds for suspension of a ~~license~~ ~~registration~~ until the person 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 a person unable to practice because of the reasons set forth in this Section, the Board may require that person to submit to care, counseling, or treatment by physicians approved or designated by the Board as a condition, term, or restriction for continued, reinstated, or renewed ~~licensure~~ ~~registration~~; or, in lieu of care, counseling, or treatment, the Board may recommend that the Department file a complaint to immediately suspend, revoke, or otherwise discipline the ~~license~~ ~~registration~~ of the person. Any person whose ~~license~~ ~~registration~~ was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions and who fails to comply with such terms, conditions, or restrictions shall be referred to the ~~Secretary~~ ~~Director~~ for a determination as to whether the person shall have his or her ~~license~~ ~~registration~~ suspended immediately, pending a hearing by the Board.

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/19) (from Ch. 111, par. 8119)

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

Sec. 19. Investigation; notice and hearing. The Department may investigate the actions or qualifications of any applicant or person holding or claiming to hold a ~~license~~ ~~certificate of registration~~. The Department shall, before suspending or revoking, placing on probation, reprimanding, or taking any other disciplinary action under Section 18.1 of this Act, at least 30 days before the date set for the hearing, notify the applicant or ~~licensee~~ ~~holder of a certificate of registration~~ in writing of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or certified or registered mail to the applicant or licensee at the address of ~~record with his last notification to~~ the Department. The Department shall direct the applicant or licensee to file a written answer with the Department, under oath, within 20 days after the service of the notice, and inform the person that if he or she fails to file an answer, his or her license may be revoked, suspended, placed on probation, reprimanded, or the Department may take any other additional disciplinary action including the issuance of fines, not to exceed ~~\$10,000~~ ~~\$1,000~~ for each violation, as the Department may consider necessary, without a hearing. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel. All parties shall be accorded an opportunity to present any statements, testimony, evidence, and arguments as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.

(Source: P.A. 87-1031; 88-363.)

(225 ILCS 315/21) (from Ch. 111, par. 8121)

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

Sec. 21. Subpoenas; depositions; oaths. The Department has power to subpoena and bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in circuit courts of this State.

The ~~Secretary~~ ~~Director~~, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing which the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

(Source: P.A. 88-363.)

(225 ILCS 315/22.1)

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

Sec. 22.1. Findings 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 the licensee 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 recommendation of the Board shall be the basis for the Department's order for refusal or for the granting of the license. If the Secretary Director disagrees with the recommendations of the Board, the Secretary Director may issue an order in contravention of the Board recommendations. The Secretary Director shall provide a written report to the Board on any disagreement and shall specify the reasons for the action in the final order. The findings are not admissible in evidence against the person in a criminal prosecution for violation of this Act, but the hearing and findings are not a bar to a criminal prosecution for violation of this Act.

(Source: P.A. 88-363.)

(225 ILCS 315/23) (from Ch. 111, par. 8123)

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

Sec. 23. Board; Rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the accused person, either personally or as provided in this Act for the service of the notice. Within 20 days after such service, the applicant or licensee may present to the Department a motion in writing for a rehearing which shall specify the particular grounds for rehearing. If no motion for a 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 the denial, the Secretary Director may enter any order in accordance with recommendations of the Board, except as provided in Section 120 of this Act. If the applicant or licensee requests and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Whenever the Secretary Director is not satisfied that substantial justice has been done, he may order a rehearing by the same or another special board. At the expiration of the time specified for filing a motion for a rehearing the Secretary Director has the right to take the action recommended by the Board.

(Source: P.A. 88-363.)

(225 ILCS 315/24) (from Ch. 111, par. 8124)

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

Sec. 24. Appointment of a hearing officer. The Secretary Director has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or permit or to discipline a licensee. The Secretary Director shall notify the Board of any such appointment. The hearing officer has full authority to conduct the hearing. At least one member of the Board shall attend each hearing. The hearing officer shall report his findings of fact, conclusions of law and recommendations to the Board and the Secretary Director. The Board has 60 days from receipt of the report to review it 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 with the recommendation of the Board or hearing officer, the Secretary Director may issue an order in contravention of the recommendation. The Secretary Director shall promptly provide a written explanation to the Board on any disagreement.

(Source: P.A. 88-363.)

(225 ILCS 315/25) (from Ch. 111, par. 8125)

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

Sec. 25. Order or certified copy; 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 315/28) (from Ch. 111, par. 8128)

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

Sec. 28. Summary suspension of a license. The Secretary Director may summarily suspend the license of a landscape architect without a hearing, simultaneously with the institution of proceedings for a

hearing provided for in Section 24 of this Act, if the ~~Secretary Director~~ finds that evidence in the possession of the ~~Secretary Director~~ indicates that the continuation in practice by the landscape architect would constitute an imminent danger to the public. In the event that the ~~Secretary Director~~ temporarily suspends the license of an individual without a hearing, a hearing must be held within 30 days after such suspension has occurred.

(Source: P.A. 88-363.)

(225 ILCS 315/31) (from Ch. 111, par. 8131)

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

Sec. 31. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the ~~last known~~ address of record of a party.

(Source: P.A. 88-45.)

(225 ILCS 315/4.5 rep.)

Section 15. The Illinois Landscape Architecture Act of 1989 is amended by repealing Section 4.5.

Section 20. The Auction License Act is amended by changing Sections 5-10, 10-1, 10-20, 10-27, 10-30, 10-35, 10-40, 10-45, 10-50, 15-5, 15-10, 20-5, 20-15, 20-40, 20-50, 20-55, 20-80, and 30-30 and by adding Sections 10-15a, 20-43, 20-56, 30-7 and 30-13 as follows:

(225 ILCS 407/5-10)

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

Sec. 5-10. Definitions. As used in this Act:

"Advertisement" means any written, oral, or electronic communication that contains a promotion, inducement, or offer to conduct an auction or offer to provide an auction service, including but not limited to brochures, pamphlets, radio and television scripts, telephone and direct mail solicitations, electronic media, and other means of promotion.

"Advisory Board" or "Board" means the Auctioneer Advisory Board.

"Associate auctioneer" means a person who conducts an auction, but who is under the direct supervision of, and is sponsored by, a licensed auctioneer or auction firm.

"Auction" means the sale or lease of property, real or personal, by means of exchanges between an auctioneer ~~or associate auctioneer~~ and prospective purchasers or lessees, which consists of a series of invitations for offers made by the auctioneer ~~or associate auctioneer~~ and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail, telecommunications, or the Internet.

"Auction contract" means a written agreement between an auctioneer, ~~associate auctioneer~~, or auction firm and a seller or sellers.

"Auction firm" means any corporation, partnership, or limited liability company that acts as an auctioneer and provides an auction service.

"Auction school" means any educational institution, public or private, which offers a curriculum of auctioneer education and training approved by the Department.

"Auction service" means the service of arranging, managing, advertising, or conducting auctions.

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission, or any other valuable consideration at auction or with the intention or expectation of receiving valuable consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

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

"Buyer premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, auction firms, seller, lessor, or other party to the transaction, other than the purchase price.

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

"Goods" means chattels, movable goods, merchandise, or personal property or commodities of any

form or type that may be lawfully kept or offered for sale.

"Licensee" means any person licensed under this Act.

"Managing auctioneer" means any person licensed as an auctioneer who manages and supervises licensees sponsored by an auction firm or auctioneer.

"Person" means an individual, association, partnership, corporation, or limited liability company or the officers, directors, or employees of the same.

"Pre-renewal period" means the 24 months prior to the expiration date of a license issued under this Act.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or his or her designee.

"Sponsoring auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed ~~associate auctioneer or~~ auctioneer.

"Sponsor card" means the temporary permit issued by the sponsoring auctioneer certifying that the licensee named thereon is employed by or associated with the sponsoring auctioneer and the sponsoring auctioneer shall be responsible for the actions of the sponsored licensee.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-1)

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

Sec. 10-1. Necessity of license; exemptions.

(a) It is unlawful for any person, corporation, limited liability company, partnership, or other entity to conduct an auction, provide an auction service, hold himself or herself out as an auctioneer, or advertise his or her services as an auctioneer in the State of Illinois without a license issued by the Department under this Act, except at:

(1) an auction conducted solely by or for a not-for-profit organization for charitable purposes in which the individual receives no compensation;

(2) an auction conducted by the owner of the property, real or personal;

(3) an auction for the sale or lease of real property conducted by a licensee under the Real Estate License Act, or its successor Acts, in accordance with the terms of that Act;

(4) an auction conducted by a business registered as a market agency under the federal Packers and Stockyards Act (7 U.S.C. 181 et seq.) or under the Livestock Auction Market Law;

(5) an auction conducted by an agent, officer, or employee of a federal agency in the conduct of his or her official duties; and

(6) an auction conducted by an agent, officer, or employee of the State government or any political subdivision thereof performing his or her official duties.

(b) Nothing in this Act shall be construed to apply to a new or used vehicle dealer or a vehicle auctioneer licensed by the Secretary of State of Illinois, or to any employee of the licensee, who is a resident of the State of Illinois, while the employee is acting in the regular scope of his or her employment for the licensee while conducting an auction that is not open to the public, provided that only new or used vehicle dealers, rebuilders, automotive parts recyclers, or scrap processors licensed by the Secretary of State or licensed by another state or jurisdiction may buy property at the auction, or to sales by or through the licensee. Out-of-state salvage vehicle buyers licensed in another state or jurisdiction may also buy property at the auction.

(c) Nothing in this Act shall be construed to prohibit a person under the age of 18 from selling property under \$250 in value while under the direct supervision of a licensed auctioneer.

(d) Nothing in this Act, except Section 10-27, shall be construed to apply to a person while providing an Internet auction listing service as defined in Section 10-27.

(Source: P.A. 95-572, eff. 6-1-08; 95-783, eff. 1-1-09.)

(225 ILCS 407/10-15a new)

Sec. 10-15a. Associate auctioneer license; discontinuance.

(a) Upon the effective date of this amendatory Act of the 96th General Assembly, the Department shall no longer issue or renew any associate auctioneer license.

(b) Any person who holds a valid license as an associate auctioneer on the effective date of this amendatory Act of the 96th General Assembly shall be issued an auctioneer license without having to apply to the Department or pay any fee. Such licensee's previous record as an associate auctioneer, including any past discipline imposed on him or her, shall be become part of his or her auctioneer license record. The expiration date of such licensee's auctioneer license shall be the same as the expiration date of his or her associate auctioneer license.

(c) Upon receipt of an auctioneer license issued by the Department pursuant to this Section, a licensee's associate auctioneer license shall no longer be valid.

[May 28, 2009]

(225 ILCS 407/10-20)

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

Sec. 10-20. Requirements for auction firm license; application. Any corporation, limited liability company, or partnership who desires to obtain an auction firm license shall:

(1) apply to the Department on forms provided by the Department accompanied by the required fee; ~~and~~

(2) provide evidence to the Department that the auction firm has a properly licensed managing auctioneer; ~~and -~~

(3) any requirement as defined by rule.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-27)

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

Sec. 10-27. Registration of Internet Auction Listing Service.

(a) For the purposes of this Section:

(1) "Internet Auction Listing Service" means a website on the Internet, or other interactive computer service that is designed to allow or advertised as a means of allowing users to offer personal property or services for sale or lease to a prospective buyer or lessee through an on-line bid submission process using that website or interactive computer service and that does not examine, set the price, or prepare the description of the personal property or service to be offered, or in any way utilize the services of a natural person as an auctioneer.

(2) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

(b) It is unlawful for any person, corporation, limited liability company, partnership, or other entity to provide an Internet auction listing service in the State of Illinois for compensation without being registered with the Department when:

(1) the person, corporation, limited liability company, partnership, or other entity providing the Internet auction listing service is located in the State of Illinois;

(2) the prospective seller or seller, prospective lessor or lessor, or prospective purchaser or purchaser is located in the State of Illinois and is required to agree to terms with the person, corporation, limited liability company, partnership, or other entity providing the Internet auction listing service, no matter where that person, corporation, limited liability company, partnership, or other entity is located; or

(3) the personal property or services offered for sale or lease are located or will be provided in the State of Illinois.

(c) Any person, corporation, limited liability company, partnership, or other entity that provides an Internet auction listing service in the State of Illinois for compensation under any of the circumstances listed in subsection (b) shall register with the Department on forms provided by the Department accompanied by the required fee as provided by rule. Such registration shall include information as required by the Department and established by rule as the Department deems necessary to enable users of the Internet auction listing service in Illinois to identify the entity providing the service and to seek redress or further information from such entity. The fee shall be sufficient to cover the reasonable costs of the Department in administering and enforcing the provisions of this Section. The registrant shall be required to certify:

(1) that the registrant does not act as the agent of users who sell items on its website, and acts only as a venue for user transactions;

(2) that the registrant requires sellers and bidders to register with the website and provide their name, address, telephone number and e-mail address;

(3) that the registrant retains such information for a period of at least 2 years;

(4) that the registrant retains transactional information consisting of at least seller identification, high bidder identification, and item sold for at least 2 years from the close of a transaction, and has a mechanism to identify all transactions involving a particular seller or buyer;

(5) that the registrant has a mechanism to receive complaints or inquiries from users;

(6) that the registrant adopts and reasonably implements a policy of suspending, in appropriate circumstances, the accounts of users who, based on the registrant's investigation, are proven to have engaged in a pattern of activity that appears to be deliberately designed to defraud consumers on the registrant's website; and

(7) that the registrant will comply with the Department and law enforcement requests for stored data in its possession, subject to the requirements of applicable law.

(d) The Department may refuse to accept a registration which is incomplete or not accompanied by the required fee. The Department may impose a civil penalty not to exceed \$10,000 upon any Internet auction listing service that intentionally fails to register as required by this Section, and may impose such penalty or revoke, suspend, or place on probation or administrative supervision the registration of any Internet auction listing service that:

(1) intentionally makes a false or fraudulent material representation or material misstatement or misrepresentation to the Department in connection with its registration, including in the certification required under subsection (c);

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

(3) is adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the Mental Health and Developmental Disabilities Code;

(4) has been subject to discipline by another state, the District of Columbia, a territory of the United States, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or equivalent to one of the grounds for discipline set forth in this Section or for failing to report to the Department, within 30 days, any adverse final action taken against the registrant by any other licensing or registering jurisdiction, government agency, law enforcement agency, or court, or liability for conduct that would constitute grounds for action as set forth in this Section;

(5) fails to make available to the Department personnel during normal business hours all records and related documents maintained in connection with the activities subject to registration under this Section;

(6) makes or files false records or reports in connection with activities subject to registration, including but not limited to false records or reports filed with State agencies;

(7) fails to provide information within 30 days in response to a written request made by the Department to a person designated in the registration for receipt of such requests; or

(8) fails to perform any act or procedure described in subsection (c) of this Section.

(e) Registrations issued pursuant to this Section shall ~~be defined by rule expire on September 30 of odd numbered years.~~ A registrant shall submit a renewal application to the Department on forms provided by the Department along with the required fee as established by rule.

(f) Operating an Internet auction listing service under any of the circumstances listed in subsection (b) without being currently registered under this Section is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary, the Attorney General of the State of Illinois, the State's Attorney of any county in the State, or any other person may maintain an action and apply for injunctive relief in any circuit court to enjoin the person or entity from engaging in such practice.

(g) The provisions of Sections 20-25, 20-30, 20-35, 20-40, ~~20-45~~, 20-50, 20-55, 20-60 and 20-75 of this Act shall apply to any actions of the Department exercising its authority under subsection (d) as if a person required to register under this Section were a person holding or claiming to hold a license under this Act.

(h) The Department shall have the authority to adopt such rules as may be necessary to implement or interpret the provisions of this Section.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-30)

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

Sec. 10-30. Expiration, renewal, and continuing education.

(a) License expiration dates, renewal periods, renewal fees, and procedures for renewal of licenses issued under this Act shall be set by rule of the Department. An entity may renew its license by paying the required fee and by meeting the renewal requirements adopted by the Department under this Section.

(b) All renewal applicants must provide proof as determined by the Department of having met the continuing education requirements set forth by the Department by rule. At a minimum, the rules shall require an applicant for renewal licensure as an auctioneer ~~or associate auctioneer~~ to provide proof of the completion of at least 12 hours of continuing education during the pre-renewal period preceding the expiration date of the license from schools approved by the Department, as established by rule.

(c) The Department, in its discretion, may waive enforcement of the continuing education requirements of this Section and shall adopt rules defining the standards and criteria for such waiver.

(d) (Blank).

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-35)

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

Sec. 10-35. Completed 45-day permit sponsor card; termination by sponsoring auctioneer; inoperative status.

(a) No auctioneer ~~or associate auctioneer~~ shall conduct an auction or provide an auction service without being properly sponsored by a licensed auctioneer or auction firm.

(b) The sponsoring auctioneer or sponsoring auction firm shall prepare upon forms provided by the Department and deliver to each auctioneer ~~or associate auctioneer~~ employed by or associated with the sponsoring auctioneer or sponsoring auction firm a properly completed duplicate 45-day permit sponsor card certifying that the person whose name appears thereon is in fact employed by or associated with said sponsoring auctioneer or sponsoring auction firm. The sponsoring auctioneer or sponsoring auction firm shall send the original 45-day permit sponsor card, along with a valid terminated license or other authorization as provided by rule and the appropriate fee, to the Department within 24 hours after the issuance of the sponsor card. It is a violation of this Act for any sponsoring auctioneer or sponsoring auction firm to issue a sponsor card to any auctioneer, ~~associate auctioneer~~, or applicant, unless the auctioneer, ~~associate auctioneer~~, or applicant presents in hand a valid terminated license or other authorization, as provided by rule.

(c) An auctioneer may be self-sponsored or may be sponsored by another licensed auctioneer or auction firm.

(d) (Blank). ~~An associate auctioneer must be sponsored by a licensed auctioneer or auction firm.~~

(e) When an auctioneer ~~or associate auctioneer~~ terminates his or her employment or association with a sponsoring auctioneer or sponsoring auction firm or the employment or association is terminated by the sponsoring auctioneer or sponsoring auction firm, the terminated licensee shall obtain from that sponsoring auctioneer or sponsoring auction firm his or her license endorsed by the sponsoring auctioneer or sponsoring auction firm indicating the termination. The terminating sponsoring auctioneer or sponsoring auction firm shall send a copy of the terminated license within 5 days after the termination to the Department or shall notify the Department in writing of the termination and explain why a copy of the terminated license was not surrendered.

(f) The license of any auctioneer ~~or associate auctioneer~~ whose association with a sponsoring auctioneer or sponsoring auction firm has terminated shall automatically become inoperative immediately upon such termination, unless the terminated licensee accepts employment or becomes associated with a new sponsoring auctioneer or sponsoring auction firm pursuant to subsection (g) of this Section. An inoperative licensee under this Act shall not conduct an auction or provide auction services while the license is in inoperative status.

(g) When a terminated or inoperative auctioneer ~~or associate auctioneer~~ accepts employment or becomes associated with a new sponsoring auctioneer or sponsoring auction firm, the new sponsoring auctioneer or sponsoring auction firm shall send to the Department a properly completed 45-day permit sponsor card, the terminated license, and the appropriate fee.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-40)

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

Sec. 10-40. Restoration.

(a) A licensee whose license has lapsed or expired shall have 2 years from the expiration date to restore his or her license without examination. The expired licensee shall make application to the Department on forms provided by the Department, including a properly completed 45-day permit sponsor card, provide evidence of successful completion of 12 hours of approved continuing education during the period of time the license had lapsed, and pay all ~~lapsed~~ fees and penalties as established by ~~administrative~~ rule.

(b) Notwithstanding any other provisions of this Act to the contrary, any licensee whose license under this Act has expired is eligible to restore such license without paying any lapsed fees and penalties provided that the license expired while the licensee was:

- (1) on active duty with the United States Army, United States Marine Corps, United States Navy, United States Air Force, United States Coast Guard, the State Militia called into service or training;
- (2) engaged in training or education under the supervision of the United States prior to induction into military service; or
- (3) serving as an employee of the Department, while the employee was required to

surrender his or her license due to a possible conflict of interest.

A licensee shall be eligible to restore a license under the provisions of this subsection for a period of 2 years following the termination of the service, education, or training by providing a properly completed application and 45-day permit sponsor card, provided that the termination was by other than dishonorable discharge and provided that the licensee furnishes the Department with an affidavit specifying that the licensee has been so engaged.

(c) At any time after the suspension, revocation, placement on probationary status, or other disciplinary action taken under this Act with reference to any license, the Department may restore the license to the licensee without examination upon the order of the Secretary, if the licensee submits a properly completed application and 45-day permit sponsor card, pays appropriate fees, and otherwise complies with the conditions of the order.

(Source: P.A. 95-331, eff. 8-21-07; 95-572, eff. 6-1-08.)

(225 ILCS 407/10-45)

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

Sec. 10-45. Nonresident auctioneer reciprocity.

(a) A person holding a license to engage in auctions issued to him or her by the proper authority of a state, territory, or possession of the United States of America or the District of Columbia that has licensing requirements equal to or substantially equivalent to the requirements of this State and that otherwise meets the requirements of this Act may obtain a license under this Act without examination, provided:

(1) that the Department has entered into a valid reciprocal agreement with the proper authority of the state, territory, or possession of the United States of America or the District of Columbia from which the nonresident applicant has a valid license;

(2) that the applicant provides the Department with a certificate of good standing from the applicant's ~~resident~~ state of licensure;

(3) that the applicant completes and submits an application as provided by the Department; and

(4) that the applicant pays all applicable fees required under this Act.

(b) A nonresident applicant shall file an irrevocable consent with the Department that actions may be commenced against the applicant or nonresident licensee in a court of competent jurisdiction in this State by the service of summons, process, or other pleading authorized by the law upon the Secretary. The consent shall stipulate and agree that service of the process, summons, or pleading upon the Secretary shall be taken and held in all courts to be valid and binding as if actual service had been made upon the applicant in Illinois. If a summons, process, or other pleading is served upon the Secretary, it shall be by duplicate copies, one of which shall be retained by the Department and the other immediately forwarded by certified or registered mail to the last known business address of the applicant or nonresident licensee against whom the summons, process, or other pleading may be directed.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-50)

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

Sec. 10-50. Fees; disposition of funds. ~~Fees shall be determined by rule and shall be non-refundable.~~

(a) The Department shall establish by rule a schedule of fees for the administration and maintenance of this Act. Such fees shall be nonrefundable.

(b) All fees collected under this Act shall be deposited into the General Professions Dedicated Fund and appropriated to the Department for the ordinary and contingent expenses of the Department in the administration of this Act. The Department shall provide by administrative rule for fees to be collected from licensees and applicants to cover the statutory requirements for funding the Auctioneer Recovery Fund. The Department may also provide by administrative rule for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/15-5)

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

Sec. 15-5. Representations. An auctioneer, ~~associate auctioneer~~, or auction firm, or the sponsored licensees, agents, or employees of an auctioneer or auction firm, conducting an auction or providing an auction service shall not:

(1) misrepresent a fact material to a purchaser's decision to buy at or by auction;

(2) predict specific or immediate increases in the value of any item offered for sale at auction; or

(3) materially misrepresent the qualities or characteristics of any item offered for

sale at auction.

(Source: P.A. 91-603, eff. 1-1-00.)

(225 ILCS 407/15-10)

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

Sec. 15-10. Auction contract. Any auctioneer, ~~associate auctioneer~~, or auction firm shall not conduct an auction or provide an auction service, unless the auctioneer, ~~associate auctioneer~~, or auction firm enters into a written ~~or oral~~ auction contract with the seller of any property at auction prior to the date of the auction. Any agreement shall state whether the auction is with reserve or absolute. The agreement shall be signed by the auctioneer, ~~associate auctioneer~~, or auction firm conducting an auction or providing an auction service and the seller or sellers, or the legal agent of the seller or sellers of the property to be offered at or by auction, and shall include, but not be limited to the following disclosures:

(1) Licensees shall disclose:

(A) the name, license number, business address, and phone number of the auctioneer, ~~associate auctioneer~~,

or auction firm conducting an auction or providing an auction service;

(B) the fee to be paid to the auctioneer, ~~associate auctioneer~~, or auction firm for conducting an auction

or providing an auction service; and

(C) an estimate of the advertising costs that shall be paid by the seller or sellers of property at auction and a disclosure that, if the actual advertising costs exceeds 120% of the estimated advertising cost, the auctioneer, ~~associate auctioneer~~, or auction firm shall pay the advertising costs that exceed 120% of the estimated advertising costs or shall have the seller or sellers agree in writing to pay for the actual advertising costs in excess of 120% of the estimated advertising costs.

(D) the buyer premium and the party to the transaction that receives it.

(2) Sellers shall disclose:

(A) the name, address, and phone number of the seller or sellers or the legal agent of the seller or sellers of property to be sold at auction; and

(B) any mortgage, lien, easement, or encumbrance of which the seller has knowledge on any property or goods to be sold or leased at or by auction.

(Source: P.A. 91-603, eff. 1-1-00.)

(225 ILCS 407/20-5)

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

Sec. 20-5. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice as an auctioneer, ~~an associate auctioneer~~, an auction firm, or any other licensee under this Act without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense as determined by the Department. The civil penalty fine shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding a hearing for the discipline of a license.

(b) The Department has the authority and power to investigate any and all unlicensed activity pursuant to this Act.

(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 from any court of record.

(d) Conducting an auction or providing an auction service in Illinois without holding a valid and current license under this Act is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary, the Attorney General, the State's Attorney of any county in the State, or any other person may maintain an action in the name of the People of the State of Illinois and may apply for injunctive relief in any circuit court to enjoin the person or entity from engaging in such practice.

Upon the filing of a verified petition in a circuit court, the court, if satisfied by affidavit or otherwise that the person or entity has been engaged in the practice of auctioning without a valid and current license, may enter a temporary restraining order without notice or bond enjoining the defendant from further practice. Only the showing of non-licensure, by affidavit or otherwise, is necessary in order for a temporary injunction to be issued. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases except as modified by this Section. If it is established that the defendant has been or is engaged in unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further practice. In all proceedings

hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorneys' fees. In case of violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. These injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-15)

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

Sec. 20-15. Disciplinary actions; grounds. The Department may refuse to issue or renew a license, may place on probation or administrative supervision, suspend, or revoke any license or may reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 for each violation upon anyone licensed under this Act for any of the following reasons:

- (1) False or fraudulent representation or material misstatement in furnishing information to the Department in obtaining or seeking to obtain a license.
- (2) Violation of any provision of this Act or the rules promulgated pursuant to this Act.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession, fraud, or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, conviction in this or another state of a crime that is a felony under the laws of this State, or conviction of a felony in a federal court.

(4) Being adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the Mental Health and Developmental Disabilities Code.

(5) Discipline of a licensee by another state, the District of Columbia, a territory of the United States, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent to one of the grounds for discipline set forth in this Act or for failing to report to the Department, within 30 days, any adverse final action taken against the licensee by any other licensing jurisdiction, government agency, law enforcement agency, or court, or liability for conduct that would constitute grounds for action as set forth in this Act.

(6) Engaging in the practice of auctioneering, conducting an auction, or providing an auction service without a license or after the license was expired, revoked, suspended, or terminated or while the license was inoperative.

(7) Attempting to subvert or cheat on the auctioneer exam or any continuing education exam, or aiding or abetting another to do the same.

(8) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional service not actually or personally rendered, except that an auctioneer licensed under this Act may receive a fee from another licensed auctioneer from this State or jurisdiction for the referring of a client or prospect for auction services to the licensed auctioneer.

(9) Making any substantial misrepresentation or untruthful advertising.

(10) Making any false promises of a character likely to influence, persuade, or induce.

(11) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through a licensee, agent, employee, advertising, or otherwise.

(12) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any auctioneer association or organization of which the licensee is not a member.

(13) Commingling funds of others with his or her own funds or failing to keep the funds of others in an escrow or trustee account.

(14) Failure to account for, remit, or return any moneys, property, or documents coming into his or her possession that belong to others, acquired through the practice of auctioneering, conducting an auction, or providing an auction service within 30 days of the written request from the owner of said moneys, property, or documents.

(15) Failure to maintain and deposit into a special account, separate and apart from any personal or other business accounts, all moneys belonging to others entrusted to a licensee while acting as an auctioneer, associate auctioneer, auction firm, or as a temporary custodian of the funds of

others.

(16) Failure to make available to Department personnel during normal business hours all escrow and trustee records and related documents maintained in connection with the practice of auctioneering, conducting an auction, or providing an auction service within 24 hours after a request from Department personnel.

(17) Making or filing false records or reports in his or her practice, including but not limited to false records or reports filed with State agencies.

(18) Failing to voluntarily furnish copies of all written instruments prepared by the auctioneer and signed by all parties to all parties at the time of execution.

(19) Failing to provide information within 30 days in response to a written request made by the Department.

(20) Engaging in any act that constitutes a violation of Section 2-102, 3-103, or 3-105 of the Illinois Human Rights Act.

(21) ~~(Blank) Causing a payment from the Auction Recovery Fund.~~

(22) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(23) Offering or advertising real estate for sale or lease at auction without a valid broker or salesperson's license under the Real Estate License Act of 1983, or any successor Act, unless exempt from licensure under the terms of the Real Estate License Act of ~~2000~~ 2004, or any successor Act.

~~(24) Inability to practice the profession with reasonable judgement, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability. Physical illness, mental illness, or other impairment including without limitation deterioration through the aging process, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, and safety.~~

(25) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(26) 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.

~~(27) Inability to practice with reasonable judgement, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug. Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a licensee's inability to practice with reasonable judgment, skill, or safety.~~

(28) Wilfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

The entry of an order by a circuit court establishing that any person holding a license under this Act is subject to involuntary admission or judicial admission, as provided for in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension of that license. That person may have his or her license restored only upon the determination by a circuit court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient and upon the Board's recommendation to the Department that the license be restored. Where circumstances so indicate, the Board may recommend to the Department that it require an examination prior to restoring a suspended license.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 21 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the

impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination when directed shall be grounds for suspension of his or her license until the individual submits to the examination, if the Department finds that, after notice and hearing, the refusal to submit to the examination was without reasonable cause.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-40)

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

Sec. 20-40. Hearings; record of hearings.

(a) The Department shall have the authority to conduct hearings ~~before the Advisory Board~~ on proceedings to revoke, suspend, place on probation or administrative review, reprimand, or refuse to issue or renew any license under this Act or to impose a civil penalty not to exceed \$10,000 upon any licensee under this Act.

(b) ~~The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115). The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the discipline of any license under this Act. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the order of the Department shall be the record of proceeding. At all hearings or prehearing conference, the Department and the respondent shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or prehearing conference.~~

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-43 new)

Sec. 20-43. Investigations; notice and hearing. The Department may investigate the actions of any applicant or person rendering or offering to render auction services, or holding or claiming to hold a license as a licensed auctioneer. At least 30 days before any disciplinary hearing under this Act, the Department shall: (i) notify the accused in writing of the charges made and the time and place of the hearing; (ii) direct the accused to file with the Board a written answer under oath to the charges within 20 days of receiving service of the notice; and (iii) inform the accused that if he or she fails to file an answer to the charges within 20 days of receiving service of the notice, a default judgement may be entered against him or her, or his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license as the Department may consider proper, including, but not limited to, limiting the scope, nature, or extent of the licensee's practice, or imposing a fine.

At the time and place of the hearing fixed in the notice, the Board shall proceed to hear the charges and the accused or his or her counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments in his or her defense. The Board may continue the hearing when it deems it appropriate.

Written notice of the hearing may be served by personal delivery or by certified mail to the last known address of record, unless specified as otherwise by the accused in his or her last communication with the Department.

(225 ILCS 407/20-50)

[May 28, 2009]

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

~~Sec. 20-50. Findings and recommendations. Board's findings of fact, conclusions of law, and recommendation to the Secretary. At the conclusion of the hearing, the Board shall present to the Secretary 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 any rules promulgated pursuant to this Act. The Board shall specify the nature of any violations and shall make its recommendations to the Secretary. In making recommendations for any disciplinary action, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of future harm to the public, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the Board shall endeavor to ensure that the severity of the discipline recommended is reasonably proportional to the severity of the violation.~~

~~The report of the Board's findings of fact, conclusions of law, and recommendations shall be the basis for the Department's decision to refuse to issue, restore, or renew a license, or to take any other disciplinary action. If the Secretary disagrees with the recommendations of the Board, the Secretary may issue an order in contravention of the Board recommendations. The report's findings are not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and findings are not a bar to a criminal prosecution for the violation of this Act. At the conclusion of the hearing, the Advisory Board shall present to the Secretary a written report of its findings of facts, conclusions of law, and recommendations regarding discipline or a fine. 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 Advisory Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary.~~

If the Secretary disagrees in any regard with the report of the Advisory Board, the Secretary may issue an order in contravention of the report. The Secretary shall provide a written report to the Advisory Board on any deviation and shall specify with particularity the reasons for that action in the final order.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-55)

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

~~Sec. 20-55. Appointment of a hearing officer. Motion for rehearing; rehearing. The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee. The hearing officer has full authority to conduct the hearing. Any Board member may attend hearings. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board. The Board shall review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary and to all parties to the proceedings.~~

~~If the Secretary disagrees with the recommendations of the Board or hearing officer, the Secretary may issue an order in contravention of the Board's recommendations. In any hearing involving the discipline of a license, a copy of the Advisory 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 calendar days after the service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing.~~

~~If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with the recommendations of the Advisory Board, except as provided for in this Act. If the respondent orders a transcript of the record from the reporting service and pays for it within the time for filing a motion for rehearing, the 20 calendar day period within which a motion for rehearing may be filed shall commence upon the delivery of the transcript to the respondent.~~

~~Whenever the Secretary is not satisfied that substantial justice has been done in the hearing or in the Advisory Board's report, the Secretary may order a rehearing by the same.~~

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-56 new)

~~Sec. 20-56. Board; rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on~~

the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the Board except as provided in Section 120 of this Act. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(225 ILCS 407/20-80)

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

Sec. 20-80. Summary suspension. The Secretary may temporarily suspend any license pursuant to this Act, without hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary finds that the evidence indicates that the public interest, safety, or welfare requires emergency action. In the event that the Secretary temporarily suspends any license without a hearing, a hearing shall be commenced ~~held~~ within 30 calendar days after the suspension has begun. The suspended licensee may seek a continuance of the hearing during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/30-7 new)

Sec. 30-7. Department; powers and duties. 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 as are prescribed by this Act. The Department may contract with third parties for services necessary for the proper administration of this Act.

(225 ILCS 407/30-13 new)

Sec. 30-13. The General Professions Dedicated Fund. All of the fees, fines, and penalties collected under this Act shall be deposited into the General Professions Dedicated Fund. The monies deposited into the General Professions Dedicated Fund shall be used by the Department, as appropriated, for the ordinary and contingent expenses of the Department. Monies in the General Professions Dedicated Fund may be invested and reinvested, with all earnings received from investments to be deposited into that Fund and used for the same purposes as fees deposited in that Fund.

(225 ILCS 407/30-30)

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

Sec. 30-30. Auction Advisory Board.

(a) There is hereby created the Auction Advisory Board. The Advisory Board shall consist of 7 members and shall be appointed by the Secretary. In making the appointments, the Secretary shall give due consideration to the recommendations by members and organizations of the industry, including but not limited to the Illinois State Auctioneers Association. Five members of the Advisory Board shall be licensed auctioneers, except that for the initial appointments, these members may be persons without a license, but who have been auctioneers for at least 5 years preceding their appointment to the Advisory Board. One member shall be a public member who represents the interests of consumers and who is not licensed under this Act or the spouse of a person licensed under this Act or who has any responsibility for management or formation of policy of or any financial interest in the auctioneering profession or any other connection with the profession. One member shall be actively engaged in the real estate industry and licensed as a broker or salesperson. The Advisory Board shall annually elect one of its members to serve as Chairperson.

(b) Members shall be appointed for a term of 4 years, except that of the initial appointments, 3 members shall be appointed to serve a term of 3 years and 4 members shall be appointed to serve a term of 4 years. The Secretary shall fill a vacancy for the remainder of any unexpired term. Each member shall serve on the Advisory Board until his or her successor is appointed and qualified. No person shall be appointed to serve more than 2 terms, including the unexpired portion of a term due to vacancy. To the extent practicable, the Secretary shall appoint members to insure that the various geographic regions of the State are properly represented on the Advisory Board.

~~(c) Four A majority of the Advisory Board members currently appointed shall constitute a quorum. A quorum is required for all Board decisions A vacancy in the membership of the Advisory Board shall not impair the right of a quorum to exercise all of the rights and perform all the duties of the Board.~~

(d) Each member of the Advisory Board shall receive a per diem stipend in an amount to be determined by the Secretary. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(e) Members of the Advisory Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Advisory Board.

(f) The Advisory Board shall meet ~~monthly or~~ as convened by the ~~Department Chairperson.~~

(g) The Advisory Board shall advise the Department on matters of licensing and education and make recommendations to the Department on those matters and shall hear and make recommendations to the Secretary on disciplinary matters that require a formal evidentiary hearing.

(h) The Secretary shall give due consideration to all recommendations of the Advisory Board.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-15 rep.) (225 ILCS 407/10-25 rep.) (225 ILCS 407/15-20 rep.) (225 ILCS 407/20-45 rep.) (225 ILCS 407/20-90 rep.) (225 ILCS 407/30-15 rep.) (225 ILCS 407/30-20 rep.) (225 ILCS 407/30-25 rep.) (225 ILCS 407/30-35 rep.) (225 ILCS 407/30-40 rep.) (225 ILCS 407/30-45 rep.)

Section 25. The Auction License Act is amended by repealing Sections 10-15, 10-25, 15-20, 20-45, 20-90, 30-15, 30-20, 30-25, 30-35, 30-40 and 30-45.

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

Under the rules, the foregoing **Senate Bill No. 1925**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 2115

A bill for AN ACT concerning revenue.

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

House Amendment No. 1 to SENATE BILL NO. 2115

Passed the House, as amended, May 28, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2115

AMENDMENT NO. 1. Amend Senate Bill 2115 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Estate and Generation-Skipping Transfer Tax Act is amended by changing Section 2 as follows:

(35 ILCS 405/2) (from Ch. 120, par. 405A-2)

Sec. 2. Definitions.

"Federal estate tax" means the tax due to the United States with respect to a taxable transfer under Chapter 11 of the Internal Revenue Code.

"Federal generation-skipping transfer tax" means the tax due to the United States with respect to a taxable transfer under Chapter 13 of the Internal Revenue Code.

"Federal return" means the federal estate tax return with respect to the federal estate tax and means the federal generation-skipping transfer tax return with respect to the federal generation-skipping transfer tax.

"Federal transfer tax" means the federal estate tax or the federal generation-skipping transfer tax.

"Illinois estate tax" means the tax due to this State with respect to a taxable transfer.

"Illinois generation-skipping transfer tax" means the tax due to this State with respect to a taxable transfer that gives rise to a federal generation-skipping transfer tax.

"Illinois transfer tax" means the Illinois estate tax or the Illinois generation-skipping transfer tax.

"Internal Revenue Code" means, unless otherwise provided, the Internal Revenue Code of 1986, as amended from time to time.

"Non-resident trust" means a trust that is not a resident of this State for purposes of the Illinois Income Tax Act, as amended from time to time.

"Person" means and includes any individual, trust, estate, partnership, association, company or corporation.

"Qualified heir" means a qualified heir as defined in Section 2032A(e)(1) of the Internal Revenue Code.

[May 28, 2009]

"Resident trust" means a trust that is a resident of this State for purposes of the Illinois Income Tax Act, as amended from time to time.

"State" means any state, territory or possession of the United States and the District of Columbia.

"State tax credit" means:

(a) For persons dying on or after January 1, 2003 and through December 31, 2005, an amount equal to the full credit calculable under Section 2011 or Section 2604 of the Internal Revenue Code as the credit would have been computed and allowed under the Internal Revenue Code as in effect on December 31, 2001, without the reduction in the State Death Tax Credit as provided in Section 2011(b)(2) or the termination of the State Death Tax Credit as provided in Section 2011(f) as enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001, but recognizing the increased applicable exclusion amount through December 31, 2005.

(b) For persons dying after December 31, 2005 and on or before December 31, 2009, an amount equal to the full credit calculable under Section 2011 or 2604 of the Internal Revenue Code as the credit would have been computed and allowed under the Internal Revenue Code as in effect on December 31, 2001, without the reduction in the State Death Tax Credit as provided in Section 2011(b)(2) or the termination of the State Death Tax Credit as provided in Section 2011(f) as enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001, but recognizing the exclusion amount of only \$2,000,000, and with reduction to the adjusted taxable estate for any qualified terminable interest property election as defined in subsection (b-1) of this Section.

(b-1) The person required to file the Illinois return may elect on a timely filed Illinois return a marital deduction for qualified terminable interest property under Section 2056(b)(7) of the Internal Revenue Code for purposes of the Illinois estate tax that is separate and independent of any qualified terminable interest property election for federal estate tax purposes. For purposes of the Illinois estate tax, the inclusion of property in the gross estate of a surviving spouse is the same as under Section 2044 of the Internal Revenue Code.

In the case of any trust for which a State or federal qualified terminable interest property election is made, the trustee may not retain non-income producing assets for more than a reasonable amount of time without the consent of the surviving spouse.

(c) For persons dying after December 31, 2009, the credit for state tax allowable under Section 2011 or Section 2604 of the Internal Revenue Code.

"Taxable transfer" means an event that gives rise to a state tax credit, including any credit as a result of the imposition of an additional tax under Section 2032A(c) of the Internal Revenue Code.

"Transferee" means a transferee within the meaning of Section 2603(a)(1) and Section 6901(h) of the Internal Revenue Code.

"Transferred property" means:

(1) With respect to a taxable transfer occurring at the death of an individual, the deceased individual's gross estate as defined in Section 2031 of the Internal Revenue Code.

(2) With respect to a taxable transfer occurring as a result of a taxable termination as defined in Section 2612(a) of the Internal Revenue Code, the taxable amount determined under Section 2622(a) of the Internal Revenue Code.

(3) With respect to a taxable transfer occurring as a result of a taxable distribution as defined in Section 2612(b) of the Internal Revenue Code, the taxable amount determined under Section 2621(a) of the Internal Revenue Code.

(4) With respect to an event which causes the imposition of an additional estate tax under Section 2032A(c) of the Internal Revenue Code, the qualified real property that was disposed of or which ceased to be used for the qualified use, within the meaning of Section 2032A(c)(1) of the Internal Revenue Code.

"Trust" includes a trust as defined in Section 2652(b)(1) of the Internal Revenue Code.

(Source: P.A. 93-30, eff. 6-20-03.)

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

Under the rules, the foregoing **Senate Bill No. 2115**, with House Amendment No. 1, was referred to the Secretary's Desk.

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

[May 28, 2009]

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

SENATE BILL NO. 1560

A bill for AN ACT concerning civil law.

SENATE BILL NO. 1955

A bill for AN ACT concerning State government.

Passed the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 793

A bill for AN ACT concerning government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 793

Non-concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 793**, with Senate Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 809

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 809

Non-concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 809**, with Senate Amendment No. 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 71

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 71

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

[May 28, 2009]

Mr. Mahoney, Clerk:

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

HOUSE BILL 72

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 72

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 236

A bill for AN ACT concerning civil law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 236

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 237

A bill for AN ACT concerning finance.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 237

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 353

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 353

Senate Amendment No. 2 to HOUSE BILL NO. 353

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 363

A bill for AN ACT concerning education.

Which amendment is as follows:

[May 28, 2009]

Senate Amendment No. 2 to HOUSE BILL NO. 363
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 372

A bill for AN ACT concerning finance.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 372

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 436

A bill for AN ACT concerning finance.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 436

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

Mr. Mahoney, Clerk:

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

HOUSE BILL 470

A bill for AN ACT concerning liquor.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 470

Senate Amendment No. 2 to HOUSE BILL NO. 470

Senate Amendment No. 3 to HOUSE BILL NO. 470

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 489

A bill for AN ACT concerning deferred compensation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 489

Senate Amendment No. 2 to HOUSE BILL NO. 489

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

[May 28, 2009]

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 519

A bill for AN ACT concerning public employee benefits.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 519

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 547

A bill for AN ACT concerning State government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 547

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 563

A bill for AN ACT concerning professional regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 563

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 613

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 613

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 628

[May 28, 2009]

A bill for AN ACT concerning education.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 628
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

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

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

HOUSE BILL 648

A bill for AN ACT concerning transportation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 648
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 684

A bill for AN ACT concerning education.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 684
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 723

A bill for AN ACT concerning elections.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 723
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 740

A bill for AN ACT concerning education.

[May 28, 2009]

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 740
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 751

A bill for AN ACT concerning health.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 751
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 773

A bill for AN ACT concerning business.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 773
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 786

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 786
Senate Amendment No. 2 to HOUSE BILL NO. 786
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 849

A bill for AN ACT concerning local government.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 849
Concurred in by the House, May 28, 2009.

[May 28, 2009]

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 853

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 853

Senate Amendment No. 2 to HOUSE BILL NO. 853

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 865

A bill for AN ACT concerning criminal law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 865

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 880

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 880

Senate Amendment No. 2 to HOUSE BILL NO. 880

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 881

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 881

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

[May 28, 2009]

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

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

HOUSE BILL 921

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 921

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 926

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 926

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 927

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 927

Senate Amendment No. 2 to HOUSE BILL NO. 927

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 944

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 944

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 976

[May 28, 2009]

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 976
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 1057

A bill for AN ACT concerning criminal law.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 1057
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 1119

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 1119
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 1142

A bill for AN ACT concerning business.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 1142
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 1143

A bill for AN ACT concerning education.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 1143
Senate Amendment No. 2 to HOUSE BILL NO. 1143
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

[May 28, 2009]

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

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

HOUSE BILL 1293

A bill for AN ACT concerning professional regulation.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 1293

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 1322

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 1322

Senate Amendment No. 2 to HOUSE BILL NO. 1322

Senate Amendment No. 3 to HOUSE BILL NO. 1322

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 1335

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 1335

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

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

HOUSE BILL 2266

A bill for AN ACT concerning children.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2266

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

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

[May 28, 2009]

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

HOUSE BILL 2283

A bill for AN ACT concerning civil law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2283

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 2296

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2296

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 2322

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2322

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 2394

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 2394

Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

HOUSE BILL 2425

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2425

Concurred in by the House, May 28, 2009.

[May 28, 2009]

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 2440
A bill for AN ACT concerning professional regulation.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 2440
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 2443
A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 2443
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
HOUSE BILL 2527
A bill for AN ACT concerning utilities.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 2527
Concurred in by the House, May 28, 2009.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1, 2, 3 and 4 to Senate Bill 1483
Motion to Concur in House Amendment 1 to Senate Bill 1511
Motion to Concur in House Amendment 1 to Senate Bill 1556
Motion to Concur in House Amendment 3 to Senate Bill 1906
Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 1918
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1919
Motion to Concur in House Amendment 1 to Senate Bill 1925
Motion to Concur in House Amendment 1 to Senate Bill 2115

REPORTS FROM STANDING COMMITTEES

[May 28, 2009]

Senator Viverito, Chairperson of the Committee on Revenue, to which was referred **House Bill No. 4046**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Viverito, Chairperson of the Committee on Revenue, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 450; Motion to Concur in House Amendment 1 to Senate Bill 1553; Motion to Concur in House Amendments 1 and 2 to Senate Bill 1750

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred **House Bill No. 3923**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

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

Senate Amendment No. 1 to House Bill 7
 Senate Amendment No. 2 to House Bill 7
 Senate Amendment No. 1 to House Bill 88
 Senate Amendment No. 2 to House Bill 88
 Senate Amendment No. 2 to House Bill 1195
 Senate Amendment No. 2 to House Bill 1345
 Senate Amendment No. 2 to House Bill 3718

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

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 138; Motion to Concur in House Amendments 1 and 2 to Senate Bill 189; Motion to Concur in House Amendment 1 to Senate Bill 1296; Motion to Concur in House Amendments 1 and 2 to Senate Bill 1333; Motion to Concur in House Amendment 1 to Senate Bill 1477

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Haine, Chairperson of the Committee on Insurance, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to House Bill 2325

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Haine, Chairperson of the Committee on Insurance, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 2091

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Sullivan, Chairperson of the Committee on Appropriations II, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 314

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Hunter, Chairperson of the Committee on Human Services, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 275; Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1905

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Wilhelmi, Chairperson of the Committee on Judiciary, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1285; Motion to Concur in House Amendment 1 to Senate Bill 1335; Motion to Concur in House Amendments 1 and 2 to Senate Bill 2112

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Link, Chairperson of the Committee on Gaming, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1576

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Meeks, Chairperson of the Committee on Education, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 235; Motion to Concur in House Amendments 1 and 2 to Senate Bill 1293; Motion to Concur in House Amendment 1 to Senate Bill 1926

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred **Senate Joint Resolution No. 62**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution No. 62** was placed on the Secretary's Desk.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred **House Joint Resolution No. 2**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **House Joint Resolution No. 2** was placed on the Secretary's Desk.

[May 28, 2009]

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2217

Under the rules, the foregoing motion is eligible for consideration by the Senate.

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

Senate Amendment No. 2 to House Bill 935
Senate Amendment No. 2 to House Bill 1105

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

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1289

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Garrett, Chairperson of the Committee on Environment, to which was referred **Senate Joint Resolution No. 63**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution No. 63** was placed on the Secretary's Desk.

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

Senate Amendment No. 1 to House Bill 402
Senate Amendment No. 2 to House Bill 3987

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

Senator Garrett, Chairperson of the Committee on Environment, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2103

Under the rules, the foregoing motion is eligible for consideration by the Senate.

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

Senate Amendment No. 1 to Senate Bill 2190

Senate Amendment No. 2 to House Bill 3986

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

READING BILLS OF THE SENATE A THIRD TIME

[May 28, 2009]

On motion of Senator Sullivan, **Senate Bill No. 1180**, 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 37; NAYS 21.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	McCarter	Risinger
Bivins	Dillard	Millner	Rutherford
Bomke	Duffy	Murphy	Syverson
Brady	Hultgren	Pankau	
Burzynski	Jones, J.	Radogno	
Cronin	Luechtefeld	Righter	

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

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

On motion of Senator Sullivan, **Senate Bill No. 1181**, 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 23.

The following voted in the affirmative:

Bond	Haine	Link	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Hendon	Martinez	Trotter
Crotty	Holmes	Meeks	Viverito
DeLeo	Hunter	Muñoz	Wilhelmi
Delgado	Hutchinson	Noland	Mr. President
Demuzio	Jones, E.	Raoul	
Forby	Koehler	Sandoval	
Frerichs	Kotowski	Schoenberg	
Garrett	Lightford	Silverstein	

The following voted in the negative:

Althoff	Dahl	Lauzen	Radogno
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Bivins	Dillard	Luechtefeld	Righter
Bomke	Duffy	McCarter	Risinger
Brady	Hultgren	Millner	Rutherford
Burzynski	Jacobs	Murphy	Syverson
Cronin	Jones, J.	Pankau	

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

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

On motion of Senator Sullivan, **Senate Bill No. 1182**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Laufen	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.

On motion of Senator Sullivan, **Senate Bill No. 1183**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan

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Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	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.

On motion of Senator Sullivan, **Senate Bill No. 1184**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	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.

[May 28, 2009]

On motion of Senator Sullivan, **Senate Bill No. 1185**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	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.

On motion of Senator Sullivan, **Senate Bill No. 1211**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger

[May 28, 2009]

Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Laufen	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.

On motion of Senator Sullivan, **Senate Bill No. 1212**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Laufen	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.

On motion of Senator Sullivan, **Senate Bill No. 1213**, 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 37; NAYS 21.

The following voted in the affirmative:

Bomke	Haine	Lightford	Silverstein
Bond	Harmon	Link	Steans
Clayborne	Hendon	Maloney	Sullivan
Collins	Holmes	Martinez	Trotter

[May 28, 2009]

Crotty	Hunter	Meeks	Viverito
DeLeo	Hutchinson	Muñoz	Wilhelmi
Delgado	Jacobs	Noland	Mr. President
Demuzio	Jones, E.	Raoul	
Forby	Koehler	Sandoval	
Frerichs	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dillard	McCarter	Risinger
Bivins	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	Radogno	
Dahl	Luechtefeld	Righter	

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

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

On motion of Senator Sullivan, **Senate Bill No. 1214**, 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 22; Present 1.

The following voted in the affirmative:

Bond	Haine	Lightford	Stears
Clayborne	Harmon	Link	Sullivan
Collins	Hendon	Maloney	Trotter
Crotty	Holmes	Martinez	Viverito
DeLeo	Hunter	Meeks	Wilhelmi
Delgado	Hutchinson	Muñoz	Mr. President
Demuzio	Jacobs	Noland	
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Silverstein	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	Radogno	

The following voted present:

Schoenberg

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

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

[May 28, 2009]

On motion of Senator Sullivan, **Senate Bill No. 1215**, 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 22.

The following voted in the affirmative:

Bond	Haine	Link	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Hendon	Martinez	Trotter
Crotty	Hunter	Meeks	Viverito
DeLeo	Hutchinson	Muñoz	Wilhelmi
Delgado	Jacobs	Noland	Mr. President
Demuzio	Jones, E.	Raoul	
Forby	Koehler	Sandoval	
Frerichs	Kotowski	Schoenberg	
Garrett	Lightford	Silverstein	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	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.

On motion of Senator Sullivan, **Senate Bill No. 1216**, 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 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

[May 28, 2009]

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	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.

READING BILL OF THE SENATE A SECOND TIME

On motion of Senator Meeks, **Senate Bill No. 750** having been printed, was taken up, read by title a second time.

Senator Meeks offered the following amendment:

AMENDMENT NO. 2 TO SENATE BILL 750

AMENDMENT NO. 2. Amend Senate Bill 750 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Sections 5.719, 5.720, 5.721, 6z-76, and 6z-77 as follows:

(30 ILCS 105/5.719 new)

Sec. 5.719. The Education Financial Award System Fund.

(30 ILCS 105/5.720 new)

Sec. 5.720. The Digital Learning Technology Grant Fund.

(30 ILCS 105/5.721 new)

Sec. 5.721. The STEM Education Center Grant Fund.

(30 ILCS 105/6z-76 new)

Sec. 6z-76. The Invest in Illinois Fund.

(a) The Invest in Illinois Fund is intended to benefit the people of the State of Illinois by creating a specific revenue source to fund capital programs for infrastructure that will support economic growth, education, transportation, tourism, and other capital needs generated by demographic changes (such as but not limited to the aging of the population) across the State.

(b) The Invest in Illinois Fund is created as a special fund in the State treasury. All interest earned on moneys in the Fund shall be deposited into the Fund. The Invest in Illinois Fund shall not be subject to sweeps, administrative charges, or chargebacks, such as but not limited to those authorized under Section 8h, or any other fiscal or budgetary maneuver that would in any way result in the transfer of any amounts from the Invest in Illinois Fund to any other fund of the State, or having any of those amounts used for any purpose other than funding the cost of issuance, interest, fees, principal payments, and other debt service on Invest in Illinois Bonds, as that term is defined in subsection (d) of this Section.

(c) Beginning in fiscal year 2010, the State Treasurer and the State Comptroller shall transfer \$1,000,000,000 from the General Revenue Fund to the Invest in Illinois Fund. For Fiscal Year 2011 the State Treasurer and the State Comptroller shall transfer \$1,000,000,000 from the General Revenue Fund to the Invest in Illinois Fund. For Fiscal Year 2012 the State Treasurer and the State Comptroller shall transfer \$1,100,000,000 from the General Revenue Fund to the Invest in Illinois Fund, and for Fiscal Year 2013 and each Fiscal Year thereafter the State Comptroller and the State Treasurer shall transfer \$1,200,000,000 from the General Revenue Fund to the Invest in Illinois Fund.

(d) "Invest in Illinois Bonds" means those bonds issued for the purposes enumerated in this Section, after receiving the recommendation of the Capital Strategy Board, as defined in this Section. The Capital Strategy Board (the "board") shall consist of 5 members, one appointed by the Governor, one appointed by the Speaker of the House, one appointed by the Minority Leader of the House, one appointed by the Senate President, and one appointed by the Minority Leader of the Senate. Each board member shall serve for a 4-year period, and shall have at least 5 years of relevant experience in public or private finance. The board shall recommend the issuance of Invest in Illinois Bonds to the General Assembly by a simple majority vote. No member of the board, nor any business in which a board member has an

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interest, nor any immediate familial relative, spouse, or in-law (father, mother, sister, brother, son, or daughter) of a board member, may have any financial interest in nor receive any remuneration (such as but not limited to a consulting, referral, legal, or banking fees) for any bond issued due to a recommendation of the board. The board shall gather information and hold public hearings regarding the need for capital facilities and infrastructure investments needed in Illinois for the acquisition, development, construction, reconstruction, maintenance, improvement, financing, architectural planning, and installation of capital facilities within the State, whether consisting of buildings, structures, vehicles for public transit, police or fire fighters, durable equipment, land, or interests in land, to be used for any of the following purposes: (i) transportation and transit, including but not limited to railroad, road, bridge, or airport construction and maintenance, public fleet acquisition, and associated building construction or maintenance; (ii) educational purposes for (A) State universities and colleges, (B) the Illinois Community College Board created by the Public Community College Act for grants to public community Colleges authorized under Sections 5-11 and 5-12 of the Public Community College Act, (C) local K-12 school districts for school building maintenance, renovation, and construction for all grades, including but not limited to pre-school; (iii) childcare, mental health, and public health facilities and facilities for the care of veterans and their spouses; (iv) correctional purposes at State prison and correctional centers; (v) open spaces, recreational and conservation purposes, environmental protection purposes, and protection of the land, air, or water; (vi) for use by the State, its departments, authorities, public corporations, commissions, and agencies; (vii) for grants by the Secretary of State as State Librarian for central library facilities authorized by Section 8 of the Illinois Library System Act, and for grants by the Capital Development Board to units of local government for public library facilities; and (viii) for capital facilities consisting of buildings, structures, roads, bridges, healthcare facilities, police and fire stations and equipment, other durable equipment, and land grants to counties and municipalities. The board shall recommend a capital investment plan for the issuance of Invest in Illinois Bonds covering the needs of the entire State, taking into account the status of existing infrastructure, demographic changes, regional needs, sprawl, economic development for distressed communities, educational priorities, public safety, environmental protection, minority participation, and such other matters as are relevant to devising a strategic and equitable approach to capital planning. Within 12 months after being appointed, the board shall make its initial recommendations to the General Assembly for bonds financed under this Act to be issued in a strategic fashion across Illinois. No such bonds may be issued, however, without approval by the requisite vote of the General Assembly, and concomitant authority for the issuance of the applicable general obligation bond amounts, under the relevant provisions of the General Obligation Bond Act.

(30 ILCS 105/6z-77 new)

Sec. 6z-77. The Higher Education Operating Assistance Fund.

(a) The Higher Education Operating Assistance Fund is created as a special fund in the State treasury. Moneys in the Fund may be used only for the purposes set forth in this Section. All interest earned on moneys in the Fund must be deposited into the Fund. The Higher Education Operating Assistance Fund shall not be subject to sweeps, administrative charges, or charge backs, such as but not limited to those authorized under Section 8h, or any other fiscal or budgetary maneuver that would in any way transfer any funds from the Higher Education Operating Assistance Fund into any other fund of the State.

(b) The General Assembly must transfer from the General Revenue Fund to the Higher Education Operating Assistance Fund, the following amounts: (i) in fiscal year 2010, \$300,000,000.00; (ii) in each fiscal year after fiscal year 2010, the sum of the total amount appropriated to the Higher Education Operating Assistance Fund in the immediately preceding fiscal year, plus the amount equal to (1) the percentage increase in the Economic Cost Index for all Urban Consumers published by the federal Bureau of Labor Statistics for the then most recent, complete calendar year, multiplied by (2) the total amount appropriated to the Higher Education Operating Assistance Fund in the immediately preceding fiscal year.

(c) Subject to the conditions set forth in subsection (d), distributions from the Higher Education Operating Assistance Fund shall be as follows: (1) the General Assembly must appropriate 75% of all moneys in the Higher Education Operating Assistance Fund, including any balance from the prior year, to the Board of Higher Education for grants to State universities for their ordinary and contingent expenses; the grants under this item (1) must be distributed to each State university based upon each university's full time equivalent head count; and (2) the General Assembly must appropriate 25% of all moneys in the Higher Education Operating Assistance Fund, including any balance from the prior year, to the Illinois Community College Board for grants to community colleges for their ordinary and contingent expenses; the grants under this item (2) must be distributed to each community college based upon each community college's full time equivalent head count. For purposes of item (2), "full time

equivalent head count" means the total number of undergraduate students enrolled in 12 or more semester hours or quarter hours of credit courses in any given semester or quarter.

(d) Distributions from the Higher Education Operating Assistance Fund shall not be used for any of the following: (1) executive management; executive level activities concerned with the overall management of, and long-range planning for, the entire university, including but not limited to activities such as policy formation and executive direction, the activities of any governing board, the chief executive officer, the senior executive officer, or legal activities conducted on behalf of the university; (2) financial management and operations, including but not limited to activities related to the day-to-day financial management and fiscal operations of the university and long-range financial planning and policy formulations; (3) general administrative and logistical services, including but not limited to general administrative operations and services of the university (with exception of financial operations and student records activities), such as administration of personnel programs, purchasing and maintenance of supplies and materials, management of facilities, and administrative computing support; (4) faculty and staff auxiliary services, including but not limited to non-academic related support services established primarily for faculty and staff, such as faculty lounges and cafeterias; (5) public relations and development, including but not limited to activities established to maintain relations with the local community, the university's alumni, governmental entities, and the public in general, as well as activities carried out to support institution-side fund raising and development efforts; (6) superintendence, including but not limited to activities necessary to carry out the duties of management and administration for all areas under the jurisdiction of the physical plant division of the university; (7) custodial, including but not limited to activities related to custodial services in building interiors; (8) grounds maintenance, including but not limited to operation and maintenance of campus landscape and grounds, which includes maintenance of roads and walkways, snow removal, maintenance of fences, retaining walls, and drainage ditches, and care of shrubs, trees, and grass; and (9) transportation, including but not limited to all charges related to the purchase, maintenance, and operation of motor vehicles, specifically for the use of the physical plant department.

(e) This amendatory Act of the 96th General Assembly constitutes an irrevocable and continuing appropriation (i) from the General Fund to the Higher Education Operating Assistance Fund and (ii) from the Higher Education Operating Assistance Fund to the Board of Higher Education and to the Illinois Community College Board in accordance with the provisions of this Section.

Section 10. The Illinois Income Tax Act is amended by changing Sections 201, 208, and 212 and by adding Sections 202.5 and 218 as follows:

(35 ILCS 5/201) (from Ch. 120, par. 2-201)

Sec. 201. Tax Imposed.

(a) In general. A tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(b) Rates. The tax imposed by subsection (a) of this Section shall be determined as follows, except as adjusted by subsection (d-1):

(1) In the case of an individual, trust or estate, for taxable years ending prior to July 1, 1989, an amount equal to 2 1/2% of the taxpayer's net income for the taxable year.

(2) In the case of an individual, trust or estate, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 2 1/2% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(3) In the case of an individual, trust or estate, for taxable years beginning after June 30, 1989 and ending before January 1, 2010, an amount equal to 3% of the taxpayer's net income for the taxable year.

(4) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2010 and ending after December 31, 2009, an amount equal to the sum of (i) 3% of the taxpayer's net income for the period prior to January 1, 2010, as calculated under Section 202.5, and (ii) 5% of the taxpayer's net income for the period after December 31, 2009, as calculated under Section 202.5. ~~(Blank)~~.

(5) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2010, an amount equal to 5% of the taxpayer's net income for the taxable year. ~~(Blank)~~.

(6) In the case of a corporation, for taxable years ending prior to July 1, 1989, an amount equal to 4% of the taxpayer's net income for the taxable year.

(7) In the case of a corporation, for taxable years beginning prior to July 1, 1989 and

ending after June 30, 1989, an amount equal to the sum of (i) 4% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 4.8% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(8) In the case of a corporation, for taxable years beginning after June 30, 1989, an amount equal to 4.8% of the taxpayer's net income for the taxable year.

(c) Personal Property Tax Replacement Income Tax. Beginning on July 1, 1979 and thereafter, in addition to such income tax, there is also hereby imposed the Personal Property Tax Replacement Income Tax measured by net income on every corporation (including Subchapter S corporations), partnership and trust, for each taxable year ending after June 30, 1979. Such taxes are imposed on the privilege of earning or receiving income in or as a resident of this State. The Personal Property Tax Replacement Income Tax shall be in addition to the income tax imposed by subsections (a) and (b) of this Section and in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(d) Additional Personal Property Tax Replacement Income Tax Rates. The personal property tax replacement income tax imposed by this subsection and subsection (c) of this Section in the case of a corporation, other than a Subchapter S corporation and except as adjusted by subsection (d-1), shall be an additional amount equal to 2.85% of such taxpayer's net income for the taxable year, except that beginning on January 1, 1981, and thereafter, the rate of 2.85% specified in this subsection shall be reduced to 2.5%, and in the case of a partnership, trust or a Subchapter S corporation shall be an additional amount equal to 1.5% of such taxpayer's net income for the taxable year.

(d-1) Rate reduction for certain foreign insurers. In the case of a foreign insurer, as defined by Section 35A-5 of the Illinois Insurance Code, whose state or country of domicile imposes on insurers domiciled in Illinois a retaliatory tax (excluding any insurer whose premiums from reinsurance assumed are 50% or more of its total insurance premiums as determined under paragraph (2) of subsection (b) of Section 304, except that for purposes of this determination premiums from reinsurance do not include premiums from inter-affiliate reinsurance arrangements), beginning with taxable years ending on or after December 31, 1999, the sum of the rates of tax imposed by subsections (b) and (d) shall be reduced (but not increased) to the rate at which the total amount of tax imposed under this Act, net of all credits allowed under this Act, shall equal (i) the total amount of tax that would be imposed on the foreign insurer's net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country of domicile, net of all credits allowed or (ii) a rate of zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this subsection (d-1), an inter-affiliate includes a mutual insurer under common management.

(1) For the purposes of subsection (d-1), in no event shall the sum of the rates of tax imposed by subsections (b) and (d) be reduced below the rate at which the sum of:

(A) the total amount of tax imposed on such foreign insurer under this Act for a taxable year, net of all credits allowed under this Act, plus

(B) the privilege tax imposed by Section 409 of the Illinois Insurance Code, the fire insurance company tax imposed by Section 12 of the Fire Investigation Act, and the fire department taxes imposed under Section 11-10-1 of the Illinois Municipal Code, equals 1.25% for taxable years ending prior to December 31, 2003, or 1.75% for taxable years ending on or after December 31, 2003, of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in no event increase the rates imposed under subsections (b) and (d).

(2) Any reduction in the rates of tax imposed by this subsection shall be applied first against the rates imposed by subsection (b) and only after the tax imposed by subsection (a) net of all credits allowed under this Section other than the credit allowed under subsection (i) has been reduced to zero, against the rates imposed by subsection (d).

This subsection (d-1) is exempt from the provisions of Section 250.

(e) Investment credit. A taxpayer shall be allowed a credit against the Personal Property Tax Replacement Income Tax for investment in qualified property.

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified

property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met

the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall notify the Department of Revenue of all such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(2) The term "qualified property" means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings and signs that are real property, but not including land or improvements to real property that are not a structural component of a building such as landscaping, sewer lines, local access roads, fencing, parking lots, and other appurtenances;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (e);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing, or was placed in service on or after July 1, 2006 in a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act; and

(E) has not previously been used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (e) or subsection (f).

(3) For purposes of this subsection (e), "manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations. For purposes of this subsection (e) the term "mining" shall have the same meaning as the term "mining" in Section 613(c) of the Internal Revenue Code. For purposes of this subsection (e), the term "retailing" means the sale of tangible personal property or services rendered in conjunction with the sale of tangible consumer goods or commodities.

(4) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(5) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(6) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such taxable year shall be increased. Such increase shall be

determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation and, (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(8) Unless the investment credit is extended by law, the basis of qualified property shall not include costs incurred after December 31, 2008, except for costs incurred pursuant to a binding contract entered into on or before December 31, 2008.

(9) Each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under this subsection (e) for the taxable year. A partner may use the credit allocated to him or her under this paragraph only against the tax imposed in subsections (c) and (d) of this Section. If the partnership makes that election, those credits shall be allocated among the partners in the partnership in accordance with the rules set forth in Section 704(b) of the Internal Revenue Code, and the rules promulgated under that Section, and the allocated amount of the credits shall be allowed to the partners for that taxable year. The partnership shall make this election on its Personal Property Tax Replacement Income Tax return for that taxable year. The election to pass through the credits shall be irrevocable.

For taxable years ending on or after December 31, 2000, a partner that qualifies its partnership for a subtraction under subparagraph (I) of paragraph (2) of subsection (d) of Section 203 or a shareholder that qualifies a Subchapter S corporation for a subtraction under subparagraph (S) of paragraph (2) of subsection (b) of Section 203 shall be allowed a credit under this subsection (e) equal to its share of the credit earned under this subsection (e) during the taxable year by the partnership or Subchapter S corporation, determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. This paragraph is exempt from the provisions of Section 250.

(f) Investment credit; Enterprise Zone; River Edge Redevelopment Zone.

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act or, for property placed in service on or after July 1, 2006, a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (f) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone or River Edge Redevelopment Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (f);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer; and

(E) has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (f) or subsection (e).

(3) The basis of qualified property shall be the basis used to compute the depreciation

deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the Enterprise Zone or River Edge Redevelopment Zone within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) There shall be allowed an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge Redevelopment Zone, provided such property is placed in service on or after July 1, 2006, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is 0.5% and the denominator of which is 1%, but shall not exceed 0.5%.

(g) Jobs Tax Credit; Enterprise Zone, River Edge Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

(1) A taxpayer conducting a trade or business in an enterprise zone or a High Impact Business designated by the Department of Commerce and Economic Opportunity or for taxable years ending on or after December 31, 2006, in a River Edge Redevelopment Zone conducting a trade or business in a federally designated Foreign Trade Zone or Sub-Zone shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section in the amount of \$500 per eligible employee hired to work in the zone during the taxable year.

(2) To qualify for the credit:

(A) the taxpayer must hire 5 or more eligible employees to work in an enterprise zone, River Edge Redevelopment Zone, or federally designated Foreign Trade Zone or Sub-Zone during the taxable year;

(B) the taxpayer's total employment within the enterprise zone, River Edge Redevelopment Zone, or federally designated Foreign Trade Zone or Sub-Zone must increase by 5 or more full-time employees beyond the total employed in that zone at the end of the previous tax year for which a jobs tax credit under this Section was taken, or beyond the total employed by the taxpayer as of December 31, 1985, whichever is later; and

(C) the eligible employees must be employed 180 consecutive days in order to be deemed hired for purposes of this subsection.

(3) An "eligible employee" means an employee who is:

(A) Certified by the Department of Commerce and Economic Opportunity as "eligible for services" pursuant to regulations promulgated in accordance with Title II of the Job Training Partnership Act, Training Services for the Disadvantaged or Title III of the Job Training Partnership Act, Employment and Training Assistance for Dislocated Workers Program.

(B) Hired after the enterprise zone, River Edge Redevelopment Zone, or federally designated Foreign Trade Zone or Sub-Zone was designated or the trade or business was located in that zone, whichever is later.

(C) Employed in the enterprise zone, River Edge Redevelopment Zone, or Foreign Trade Zone or Sub-Zone. An employee is employed in an enterprise zone or federally designated Foreign Trade Zone or Sub-Zone if his services are rendered there or it is the base of operations for the services performed.

(D) A full-time employee working 30 or more hours per week.

(4) For tax years ending on or after December 31, 1985 and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(5) The Department of Revenue shall promulgate such rules and regulations as may be deemed necessary to carry out the purposes of this subsection (g).

(6) The credit shall be available for eligible employees hired on or after January 1, 1986.

(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact Business. The credit shall be .5% of the basis for such property. The credit shall not be available (i) until the minimum investments in qualified property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been satisfied or (ii) until the time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities designated as High Impact Businesses under subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone Act, and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which such investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business authorized under subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

Changes made in this subdivision (h)(1) by Public Act 88-670 restore changes made by Public Act 85-1182 and reflect existing law.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (h);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code; and

(D) is not eligible for the Enterprise Zone Investment Credit provided by subsection (f) of this Section.

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being

placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) Beginning with tax years ending after December 31, 1996, if a taxpayer qualifies for the credit under this subsection (h) and thereby is granted a tax abatement and the taxpayer relocates its entire facility in violation of the explicit terms and length of the contract under Section 18-183 of the Property Tax Code, the tax imposed under subsections (a) and (b) of this Section shall be increased for the taxable year in which the taxpayer relocated its facility by an amount equal to the amount of credit received by the taxpayer under this subsection (h).

(i) Credit for Personal Property Tax Replacement Income Tax. For tax years ending prior to December 31, 2003, a credit shall be allowed against the tax imposed by subsections (a) and (b) of this Section for the tax imposed by subsections (c) and (d) of this Section. This credit shall be computed by multiplying the tax imposed by subsections (c) and (d) of this Section by a fraction, the numerator of which is base income allocable to Illinois and the denominator of which is Illinois base income, and further multiplying the product by the tax rate imposed by subsections (a) and (b) of this Section.

Any credit earned on or after December 31, 1986 under this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed by subsections (a) and (b) for that year (whether it exceeds the original liability or the liability as later amended) may be carried forward and applied to the tax liability imposed by subsections (a) and (b) of the 5 taxable years following the excess credit year, provided that no credit may be carried forward to any year ending on or after December 31, 2003. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first.

If, during any taxable year ending on or after December 31, 1986, the tax imposed by subsections (c) and (d) of this Section for which a taxpayer has claimed a credit under this subsection (i) is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by recomputing the credit to take into account the reduced tax imposed by subsections (c) and (d). If any portion of the reduced amount of credit has been carried to a different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed.

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income in the computation of taxable income. The credit against the tax imposed by subsections (a) and (b) shall be 1.6% of such training expenses. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first. No carryforward credit may be claimed in any tax year ending on or after December 31, 2003.

(k) Research and development credit.

For tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of

income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

For purposes of this subsection, "qualifying expenditures" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under Section 41 of the Internal Revenue Code and which are conducted in this State, "qualifying expenditures for increasing research activities in this State" means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period, "qualifying expenditures for the base period" means the average of the qualifying expenditures for each year in the base period, and "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

Any credit in excess of the tax liability for the taxable year may be carried forward. A taxpayer may elect to have the unused credit shown on its final completed return carried over as a credit against the tax liability for the following 5 taxable years or until it has been fully used, whichever occurs first; provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003.

If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year will be applied first against the tax liability for the given year. If a tax liability for the given year still remains, the credit from the next earliest year will then be applied, and so on, until all credits have been used or no tax liability for the given year remains. Any remaining unused credit or credits then will be carried forward to the next following year in which a tax liability is incurred, except that no credit can be carried forward to a year which is more than 5 years after the year in which the expense for which the credit is given was incurred.

No inference shall be drawn from this amendatory Act of the 91st General Assembly in construing this Section for taxable years beginning before January 1, 1999.

(l) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a

taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site, except that the \$100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed \$40,000 per year with a maximum total of \$150,000 per site. For partners and shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was

granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed \$500. In no event shall a credit under this subsection reduce the taxpayer's liability under this Act to less than zero. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

"Qualifying pupils" means individuals who (i) are residents of the State of Illinois, (ii) are under the age of 21 at the close of the school year for which a credit is sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten through twelfth grade education program at any school, as defined in this subsection.

"Qualified education expense" means the amount incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at the school in which the pupil is enrolled during the regular school year.

"School" means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code, except that nothing shall be construed to require a child to attend any particular public or nonpublic school to qualify for the credit under this Section.

"Custodian" means, with respect to qualifying pupils, an Illinois resident who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils.

(n) River Edge Redevelopment Zone site remediation tax credit.

(i) For tax years ending on or after December 31, 2006, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14a of the Environmental Protection Act that were paid in performing environmental remediation at a site within a River Edge Redevelopment Zone for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor

shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(iv) This subsection is exempt from the provisions of Section 250.

(Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

(35 ILCS 5/202.5 new)

Sec. 202.5. Net income attributable to the period prior to January 1, 2010 and net income attributable to the period after December 31, 2009.

(a) In general. With respect to the taxable year of a taxpayer beginning prior to January 1, 2010 and ending after December 31, 2009, net income for the period after December 31, 2009 is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that year after December 31, 2009 bears to the total number of days in that year, and the net income for the period prior to January 1, 2010 is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that year prior to January 1, 2010 bears to the total number of days in that year.

(b) Election to attribute income and deduction items specifically to the respective portions of a taxable year prior to January 1, 2010 and after December 31, 2009. In the case of a taxpayer with a taxable year beginning prior to January 1, 2010 and ending after December 31, 2009, the taxpayer may elect, instead of the procedure established in subsection (a) of this Section, to determine net income on a specific accounting basis for the 2 portions of his or her taxable year:

(i) from the beginning of the taxable year through December 31, 2009; and

(ii) from January 1, 2010 through the end of the taxable year.

If the taxpayer elects specific accounting under this subsection, there shall be taken into account in computing base income for each of the 2 portions of the taxable year only those items earned, received, paid, incurred or accrued in each such period. The standard exemption provided by Section 204 must be divided between the respective periods in amounts that bear the same ratio to the total exemption allowable under Section 204 (determined without regard to this Section) as the total number of days in each such period bears to the total number of days in the taxable year. The election provided by this subsection must be made in form and manner that the Department requires by rule, but must be made no later than the due date (including any extensions thereof) for the filing of the return for the taxable year, and is irrevocable.

(35 ILCS 5/208) (from Ch. 120, par. 2-208)

Sec. 208. Tax credit for residential real property taxes. Beginning with tax years ending on or after December 31, 1991 and before January 1, 2010, every individual taxpayer shall be entitled to a tax credit equal to 5% of real property taxes paid by such taxpayer during the taxable year on the principal residence of the taxpayer. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes which is attributable to such principal residence.

For tax years beginning on January 1, 2010 and thereafter, every individual taxpayer shall be entitled to a tax credit equal to 10% of real property taxes paid by the taxpayer during the taxable year on real property situated within the State. In the case of multi-unit or multi-use structures, the taxes on the taxpayer's principal residence shall be that portion of the total taxes that is attributable to the principal residence. The credit under this Section may not be carried forward or back. If the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit must be refunded to the taxpayer. However, a refund under this Section may not exceed \$1,000. This Section is exempt from the provisions of Section 250 of this Act.

(Source: P.A. 87-17.)

(35 ILCS 5/212)

Sec. 212. Earned income tax credit.

(a) With respect to the federal earned income tax credit allowed for the taxable year under Section 32 of the federal Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to the following:

(1) for each taxable year beginning on or after January 1, 2000 and ending before or during calendar year 2009, the amount of the credit is 5% of the federal tax credit;

(2) for each taxable year ending during calendar year 2010, the amount of the credit is 15% of the federal tax credit. 5% of the federal tax credit for each taxable year beginning on or after January 1,

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2000.

For a non-resident or part-year resident, the amount of the credit under this Section shall be in proportion to the amount of income attributable to this State.

(b) For taxable years beginning before January 1, 2003, in no event shall a credit under this Section reduce the taxpayer's liability to less than zero. For each taxable year beginning on or after January 1, 2003, if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer. The amount of a refund shall not be included in the taxpayer's income or resources for the purposes of determining eligibility or benefit level in any means-tested benefit program administered by a governmental entity unless required by federal law.

(c) This Section is exempt from the provisions of Section 250.

(Source: P.A. 95-333, eff. 8-21-07.)

(35 ILCS 5/218 new)

Sec. 218. Family Tax Credit.

(a) For taxable years beginning on or after January 1, 2010, each individual taxpayer filing single or as a married person filing separately that reports total annual income of less than \$27,652 (the "eligibility cap for single and married filing separately") or is a married couple filing jointly or an individual filing as head of household that reports total annual income of less than \$55,304 (the "eligibility cap for married filing jointly and head of household"), is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act for each dependent and personal exemption he or she is entitled to claim on his or her federal return under Section 151 of the Internal Revenue Code of 1986. The credit is known as the "Family Tax Credit" and shall be in those amounts per personal exemption and dependent that are identified in subsection (b) of this Section. The Family Tax Credit may be claimed only upon proper filing of an Illinois income tax return by an eligible taxpayer. The eligibility caps shall increase for each tax year beginning after December 31, 2010, by an amount equal to the percentage increase, if any, in the Consumer Price Index published by the U.S. Bureau of Labor Statistics for the immediately preceding complete calendar year, multiplied by the eligibility caps for that immediately preceding tax year.

(b) The amount of the credit is determined as follows:

(1) for a single taxpayer with a total annual income of:

(A) less than \$17,136, the credit is \$50;

(B) \$17,136 or more but less than \$19,419, the credit is \$65;

(C) \$19,420 or more but less than \$21,705, the credit is \$185; or

(D) \$21,705 or more but less than \$27,652, the credit is \$248;

(2) for married taxpayers filing separately with a total annual income of:

(A) less than \$11,424, the credit is \$50;

(B) \$11,424 or more but less than \$14,280, the credit is \$65;

(C) \$14,280 or more but less than \$17,136, the credit is \$125;

(D) \$17,136 or more but less than \$20,563, the credit is \$185; and

(E) \$20,563 or more but less than \$27,652, the credit is \$248;

(3) for married taxpayers filing jointly with a total annual income of:

(A) less than \$22,848, the credit is \$50;

(B) \$22,848 or more but less than \$28,560, the credit is \$65;

(C) \$28,560 or more but less than \$34,272, the credit is \$125;

(D) \$34,272 or more but less than \$41,126, the credit is \$185; and

(E) \$41,126 or more but less than \$55,304, the credit is \$248; and

(4) for a taxpayer who is a head of household with a total annual income of:

(A) less than \$22,848, the credit is \$50;

(B) \$22,848 or more but less than \$28,560, the credit is \$65;

(C) \$28,560 or more but less than \$34,272, the credit is \$125;

(D) \$34,272 or more but less than \$41,126, the credit is \$185; and

(E) \$41,126 or more but less than \$55,304, the credit is \$248.

The dollar range of total annual income identified in the respective filing statuses and the credit per dependent/personal exemption amounts associated therewith, shall each increase in each tax year beginning after December 31, 2010, by an amount equal to the applicable percentage increase, if any, in the Consumer Price Index for the immediately preceding complete calendar year, multiplied by the applicable total annual income range amounts and the credit per dependent/personal exemption amounts associated therewith. The Department of Revenue shall update the total annual income range amounts and associated credit amounts for the Family Tax Credit annually and distribute the updated table with the Illinois personal income tax returns

(c) If the amount of the Family Tax Credit exceeds the income tax liability of an eligible taxpayer, the State shall refund to the taxpayer the difference between the Family Tax Credit and that eligible taxpayer's income tax liability.

(d) This Section is exempt from the provisions of Section 250 of this Act.

Section 15. The Retailers' Occupation Tax Act is amended by changing Sections 1 and 2 as follows:

(35 ILCS 120/1) (from Ch. 120, par. 440)

Sec. 1. Definitions. "Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced byproduct of manufacturing. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price shall be deemed to be sales.

"Sale at retail" shall be construed to include any transfer of the ownership of or title to tangible personal property to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the tangible personal property without a valuable consideration, and to include any transfer, whether made for or without a valuable consideration, for resale in any form as tangible personal property unless made in compliance with Section 2c of this Act.

Sales of tangible personal property, which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a "Sale at retail", are not sales at retail as defined in this Act: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing.

"Sale at retail" includes all of the following services, as enumerated in the North American Industry Classification System Manual (NAICS), 1997, prepared by the United States Office of Management and Budget:

- (1) Other warehousing and storage (household and specialty goods) (49319).
- (2) Travel agent services (56151).
- (3) Carpet and upholstery cleaning services (56174).
- (4) Dating services (8129902).
- (5) Dry cleaning and laundry, except coin-operated (81232).
- (6) Consumer goods rental (5322).
- (7) Health clubs, tanning parlors, reducing salons (81219).
- (8) Linen supply (812331).
- (9) Interior design services (54141).
- (10) Software modifications and canned program (541511).
- (11) Other business services, including copy shops (561439).
- (12) Bowling Centers (71395).
- (13) Coin operated video games and pinball machines (71312).
- (14) Membership fees in private clubs (71391).
- (15) Admission to spectator sports (excluding horse tracks) (7112).
- (16) Admission to cultural events (711).
- (17) Billiard Parlors (71399).
- (18) Scenic and sightseeing transportation (487).
- (19) Taxi and Limousine services (4853).
- (20) Unscheduled chartered passenger air transportation (481211).
- (21) Motion picture theaters, except drive-in theaters (512131).
- (22) Pet grooming (81291).
- (23) Landscaping services (including lawn care) (56173).
- (24) Income from intrastate transportation of persons (485).
- (25) Mini-storage (53113).
- (26) Household goods storage (49311).
- (27) Cold storage (49312).
- (28) Marina Service (docking, storage, cleaning, repair) (71393).
- (29) Marine towing service (including tugboats) (48833).

- (30) Gift and package wrapping service (5619).
- (31) Laundry and dry cleaning services, coin-operated (81231).
- (32) Massage services (812199).
- (33) Other services to buildings and dwellings (56179).
- (34) Water softening and conditioning (5619902).
- (35) Internet Service Providers (518111).
- (36) Short term auto rental (532111).
- (37) Food storage (49313).
- (38) Information Services (519190).
- (39) Amusement park admission and rides (71311).
- (40) Circuses and fairs -- admission and games (7113).
- (41) Cable and other program distribution (5175).
- (42) Rental of video tapes for home viewing (53223).

"Sale at retail" shall be construed to include any Illinois florist's sales transaction in which the purchase order is received in Illinois by a florist and the sale is for use or consumption, but the Illinois florist has a florist in another state deliver the property to the purchaser or the purchaser's donee in such other state.

Nonreusable tangible personal property that is used by persons engaged in the business of operating a restaurant, cafeteria, or drive-in is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverages occurs. Examples of those items include, but are not limited to nonreusable, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags, and wrapping or packaging materials that are transferred to customers as part of the sale of food or beverages in the ordinary course of business.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of tangible personal property.

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) is engaged in the business of selling tangible personal property at retail with respect to such transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes either (1), to the extent of sales by such person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such person, or (2), to the extent of sales by such person of tangible personal property which is not sold or offered for sale by persons organized for profit. The selling of school books and school supplies by schools at retail to students is not "primarily for the purposes of" the school which does such selling. The provisions of this paragraph shall not apply to nor subject to taxation occasional dinners, socials or similar activities of a person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public.

A person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (P.L. 92-258) and serves meals to participants in the federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the federal Act is not engaged in the business of selling tangible personal property at retail with respect to such transactions.

"Purchaser" means anyone who, through a sale at retail, acquires the ownership of or title to tangible personal property for a valuable consideration.

"Reseller of motor fuel" means any person engaged in the business of selling or delivering or transferring title of motor fuel to another person other than for use or consumption. No person shall act as a reseller of motor fuel within this State without first being registered as a reseller pursuant to Section 2c or a retailer pursuant to Section 2a.

"Selling price" or the "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property, other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include charges that are added to prices by sellers on account of the seller's tax liability under this Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or, except as otherwise provided with

respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account of the seller's tax liability under the Cigarette Tax Act, on account of the sellers' duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from retailers' occupation tax and use tax as an isolated or occasional sale.

"Gross receipts" from the sales of tangible personal property at retail means the total selling price or the amount of such sales, as hereinbefore defined. In the case of charge and time sales, the amount thereof shall be included only as and when payments are received by the seller. Receipts or other consideration derived by a seller from the sale, transfer or assignment of accounts receivable to a wholly owned subsidiary will not be deemed payments prior to the time the purchaser makes payment on such accounts.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail, or a sale through a bulk vending machine, does not constitute engaging in a business of selling such tangible personal property at retail within the meaning of this Act; provided that any person who is engaged in a business which is not subject to the tax imposed by this Act because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate or a construction contract to engineer, install, and maintain an integrated system of products, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate or was not engineered and installed, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is engaged in the business of selling tangible personal property at retail to the extent of the value of the tangible personal property so transferred. If, in such a transaction, a separate charge is made for the tangible personal property so transferred, the value of such property, for the purpose of this Act, shall be the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property. Construction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of this Act if they are sold at one specified contract price.

A person who holds himself or herself out as being engaged (or who habitually engages) in selling tangible personal property at retail is a person engaged in the business of selling tangible personal property at retail hereunder with respect to such sales (and not primarily in a service occupation) notwithstanding the fact that such person designs and produces such tangible personal property on special order for the purchaser and in such a way as to render the property of value only to such purchaser, if such tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.

Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps are engaged in the business of selling such property at retail and shall be liable for and shall pay the tax imposed by this Act on the basis of the retail value of the property transferred upon redemption of such stamps.

"Bulk vending machine" means a vending machine, containing unsorted confections, nuts, toys, or other items designed primarily to be used or played with by children which, when a coin or coins of a denomination not larger than \$0.50 are inserted, are dispensed in equal portions, at random and without selection by the customer.

(Source: P.A. 95-723, eff. 6-23-08.)

[May 28, 2009]

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

Sec. 2. Tax imposed. A tax is imposed upon persons engaged in the business of selling at retail tangible personal property, including computer software, and including photographs, negatives, and positives that are the product of photoprocessing, but not including products of photoprocessing produced for use in motion pictures for public commercial exhibition, or engaged in the business of providing services as set forth in in Section 1 of this Act. Beginning January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under this Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed.

(Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

Section 20. The Illinois Pension Code is amended by changing Section 16-158 as follows:
(40 ILCS 5/16-158) (from Ch. 108 1/2, par. 16-158)

Sec. 16-158. Contributions by State and other employing units.

(a) The State shall make contributions to the System by means of appropriations from the Common School Fund and other State funds of amounts which, together with other employer contributions, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the System on a 90% funded basis in accordance with actuarial recommendations.

The Board shall determine the amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, using the formula in subsection (b-3).

(a-1) Annually, on or before November 15, the Board shall certify to the Governor the amount of the required State contribution for the coming fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

(b) Through State fiscal year 1995, the State contributions shall be paid to the System in accordance with Section 18-7 of the School Code.

(b-1) Beginning in State fiscal year 1996, on the 15th day of each month, or as soon thereafter as may be practicable, the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a-1). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (a) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this subsection, the difference shall be paid from the Common School Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(b-2) Allocations from the Common School Fund apportioned to school districts not coming under this System shall not be diminished or affected by the provisions of this Article.

(b-3) For State fiscal years 2011 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 90% of the total actuarial liabilities of the System by the end of State fiscal year 2045. In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.

For State fiscal years 1996 through 2005, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year

2011, the State is contributing at the rate required under this Section; except that in the following specified State fiscal years, the State contribution to the System shall not be less than the following indicated percentages of the applicable employee payroll, even if the indicated percentage will produce a State contribution in excess of the amount otherwise required under this subsection and subsection (a), and notwithstanding any contrary certification made under subsection (a-1) before the effective date of this amendatory Act of 1998: 10.02% in FY 1999; 10.77% in FY 2000; 11.47% in FY 2001; 12.16% in FY 2002; 12.86% in FY 2003; and 13.56% in FY 2004.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2006 is \$534,627,700.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2007 is \$738,014,500.

For each of State fiscal years 2008 through 2010, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments from the required State contribution for State fiscal year 2007, so that by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 90% of the total actuarial liabilities of the System.

Amounts received by the System pursuant to Section 25 of the Budget Stabilization Act or Section 8.12 of the State Finance Act in any fiscal year do not reduce and do not constitute payment of any portion of the minimum State contribution required under this Article in that fiscal year. Such amounts shall not reduce, and shall not be included in the calculation of, the required State contributions under this Article in any future year until the System has reached a funding ratio of at least 90%. A reference in this Article to the "required State contribution" or any substantially similar term does not include or apply to any amounts payable to the System under Section 25 of the Budget Stabilization Act.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and for fiscal year 2008 and each fiscal year thereafter, as calculated under this Section and certified under subsection (a-1), shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act. In determining this maximum for State fiscal years 2008 through 2010, however, the amount referred to in item (i) shall be increased, as a percentage of the applicable employee payroll, in equal increments calculated from the sum of the required State contribution for State fiscal year 2007 plus the applicable portion of the State's total debt service payments for fiscal year 2007 on the bonds issued for the purposes of Section 7.2 of the General Obligation Bond Act, so that, by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

(c) Payment of the required State contributions and of all pensions, retirement annuities, death benefits, refunds, and other benefits granted under or assumed by this System, and all expenses in connection with the administration and operation thereof, are obligations of the State.

If members are paid from special trust or federal funds which are administered by the employing unit, whether school district or other unit, the employing unit shall pay to the System from such funds the full accruing retirement costs based upon that service, as determined by the System. Employer contributions, based on salary paid to members from federal funds, may be forwarded by the distributing agency of the State of Illinois to the System prior to allocation, in an amount determined in accordance with guidelines established by such agency and the System.

(d) Effective July 1, 1986, any employer of a teacher as defined in paragraph (8) of Section 16-106 shall pay the employer's normal cost of benefits based upon the teacher's service, in addition to employee contributions, as determined by the System. Such employer contributions shall be forwarded monthly in accordance with guidelines established by the System.

However, with respect to benefits granted under Section 16-133.4 or 16-133.5 to a teacher as defined in paragraph (8) of Section 16-106, the employer's contribution shall be 12% (rather than 20%) of the member's highest annual salary rate for each year of creditable service granted, and the employer shall also pay the required employee contribution on behalf of the teacher. For the purposes of Sections 16-133.4 and 16-133.5, a teacher as defined in paragraph (8) of Section 16-106 who is serving in that capacity while on leave of absence from another employer under this Article shall not be considered an employee of the employer from which the teacher is on leave.

(e) Beginning July 1, 1998, every employer of a teacher shall pay to the System an employer contribution computed as follows:

- (1) Beginning July 1, 1998 through June 30, 1999, the employer contribution shall be equal to 0.3% of each teacher's salary.
- (2) Beginning July 1, 1999 and thereafter, the employer contribution shall be equal to 0.58% of each teacher's salary.

The school district or other employing unit may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the System on the schedule established for the payment of member contributions.

These employer contributions are intended to offset a portion of the cost to the System of the increases in retirement benefits resulting from this amendatory Act of 1998.

Each employer of teachers is entitled to a credit against the contributions required under this subsection (e) with respect to salaries paid to teachers for the period January 1, 2002 through June 30, 2003, equal to the amount paid by that employer under subsection (a-5) of Section 6.6 of the State Employees Group Insurance Act of 1971 with respect to salaries paid to teachers for that period.

The additional 1% employee contribution required under Section 16-152 by this amendatory Act of 1998 is the responsibility of the teacher and not the teacher's employer, unless the employer agrees, through collective bargaining or otherwise, to make the contribution on behalf of the teacher.

If an employer is required by a contract in effect on May 1, 1998 between the employer and an employee organization to pay, on behalf of all its full-time employees covered by this Article, all mandatory employee contributions required under this Article, then the employer shall be excused from paying the employer contribution required under this subsection (e) for the balance of the term of that contract. The employer and the employee organization shall jointly certify to the System the existence of the contractual requirement, in such form as the System may prescribe. This exclusion shall cease upon the termination, extension, or renewal of the contract at any time after May 1, 1998.

(f) If the amount of a teacher's salary for any school year used to determine final average salary exceeds the member's annual full-time salary rate with the same employer for the previous school year by more than 6%, the teacher's employer shall pay to the System, in addition to all other payments required under this Section and in accordance with guidelines established by the System, the present value of the increase in benefits resulting from the portion of the increase in salary that is in excess of 6%. This present value shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation. If a teacher's salary for the 2005-2006 school year is used to determine final average salary under this subsection (f), then the changes made to this subsection (f) by Public Act 94-1057 shall apply in calculating whether the increase in his or her salary is in excess of 6%. For the purposes of this Section, change in employment under Section 10-21.12 of the School Code on or after June 1, 2005 shall constitute a change in employer. The System may require the employer to provide any pertinent information or documentation. The changes made to this subsection (f) by this amendatory Act of the 94th General Assembly apply without regard to whether the teacher was in service on or after its effective date.

Whenever it determines that a payment is or may be required under this subsection, the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the calculations used to determine the amount due. If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute and, if the employer asserts that the calculation is subject to subsection (g) or (h) of this Section, must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of that subsection. Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.

The employer contributions required under this subsection (f) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill.

(g) This subsection (g) applies only to payments made or salary increases given on or after June 1, 2005 but before July 1, 2011. The changes made by Public Act 94-1057 shall not require the System to refund any payments received before July 31, 2006 (the effective date of Public Act 94-1057).

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to teachers under contracts or collective bargaining agreements entered into, amended, or

renewed before June 1, 2005.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to a teacher at a time when the teacher is 10 or more years from retirement eligibility under Section 16-132 or 16-133.2.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases resulting from overload work, including summer school, when the school district has certified to the System, and the System has approved the certification, that (i) the overload work is for the sole purpose of classroom instruction in excess of the standard number of classes for a full-time teacher in a school district during a school year and (ii) the salary increases are equal to or less than the rate of pay for classroom instruction computed on the teacher's current salary and work schedule.

When assessing payment for any amount due under subsection (f), the System shall exclude a salary increase resulting from a promotion (i) for which the employee is required to hold a certificate or supervisory endorsement issued by the State Teacher Certification Board that is a different certification or supervisory endorsement than is required for the teacher's previous position and (ii) to a position that has existed and been filled by a member for no less than one complete academic year and the salary increase from the promotion is an increase that results in an amount no greater than the lesser of the average salary paid for other similar positions in the district requiring the same certification or the amount stipulated in the collective bargaining agreement for a similar position requiring the same certification.

When assessing payment for any amount due under subsection (f), the System shall exclude any payment to the teacher from the State of Illinois or the State Board of Education over which the employer does not have discretion or which is paid to a mentor teacher or principal from funds provided to the employer by the State Board of Education for the purpose of mentoring a new teacher or principal, notwithstanding that the payment is included in the computation of final average salary.

(h) When assessing payment for any amount due under subsection (f), the System shall exclude any salary increase described in subsection (g) of this Section given on or after July 1, 2011 but before July 1, 2014 under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005 but before July 1, 2011. Notwithstanding any other provision of this Section, any payments made or salary increases given after June 30, 2014 shall be used in assessing payment for any amount due under subsection (f) of this Section.

(i) The System shall prepare a report and file copies of the report with the Governor and the General Assembly by January 1, 2007 that contains all of the following information:

- (1) The number of recalculations required by the changes made to this Section by Public Act 94-1057 for each employer.
- (2) The dollar amount by which each employer's contribution to the System was changed due to recalculations required by Public Act 94-1057.
- (3) The total amount the System received from each employer as a result of the changes made to this Section by Public Act 94-4.
- (4) The increase in the required State contribution resulting from the changes made to this Section by Public Act 94-1057.

(Source: P.A. 94-4, eff. 6-1-05; 94-839, eff. 6-6-06; 94-1057, eff. 7-31-06; 94-1111, eff. 2-27-07; 95-331, eff. 8-21-07; 95-950, eff. 8-29-08.)

Section 25. The School Code is amended by changing Sections 1A-8, 1C-2, 2-3.25c, 2-3.25d, 2-3.53a, 3-7, 10-17a, 10-20.20, 10-22.45, 14-13.01, 18-8.05, 19-3, 21-29, 21A-5, 21A-10, 21A-15, 21A-20, 21A-25, 21A-30, 23-3, 23-6, 24-12, 24A-3, 24A-4, 24A-5, 24A-6, 24A-8, and 29-5, by adding Sections 2-3.25d-5, 2-3.53b, 2-3.64b, 2-3.148, 2-3.149, 2-3.150, 2-3.151, 2-3.152, 3-6.5, 10-16.10, 10-17b, 10-17c, 10-17d, 10-20.46, 17-2.11c, 21A-3, 23-5.5, 34-18.37, 34-18.38, 34-18.39, 34-18.40, and 34-18.41, and by renumbering and changing Section 10-20.41 as added by Public Act 95-707 as follows:

(105 ILCS 5/1A-8) (from Ch. 122, par. 1A-8)

Sec. 1A-8. Powers of the Board in Assisting Districts Deemed in Financial Difficulties. To promote the financial integrity of school districts, the State Board of Education shall be provided the necessary powers to promote sound financial management and continue operation of the public schools.

The State Superintendent of Education may require a school district, including any district subject to Article 34A of this Code, to share financial information relevant to a proper investigation of the district's financial condition and the delivery of appropriate State financial, technical, and consulting services to the district if the district (i) has been designated, through the State Board of Education's School District Financial Profile System, as on financial warning or financial watch status, (ii) has failed to file an annual financial report, annual budget, deficit reduction plan, or other financial information as required

by law, or (iii) has been identified, through the district's annual audit or other financial and management information, as in serious financial difficulty in the current or next school year. In addition to financial, technical, and consulting services provided by the State Board of Education, at the request of a school district, the State Superintendent may provide for an independent financial consultant to assist the district review its financial condition and options.

The State Board of Education, after proper investigation of a district's financial condition, may certify that a district, including any district subject to Article 34A, is in financial difficulty when any of the following conditions occur:

(1) The district has issued school or teacher orders for wages as permitted in Sections 8-16, 32-7.2 and 34-76 of this Code;

(2) The district has issued tax anticipation warrants or tax anticipation notes in anticipation of a second year's taxes when warrants or notes in anticipation of current year taxes are still outstanding, as authorized by Sections 17-16, 34-23, 34-59 and 34-63 of this Code, or has issued short-term debt against 2 future revenue sources, such as, but not limited to, tax anticipation warrants and general State Aid certificates or tax anticipation warrants and revenue anticipation notes;

(3) The district has for 2 consecutive years shown an excess of expenditures and other financing uses over revenues and other financing sources and beginning fund balances on its annual financial report for the aggregate totals of the Educational, Operations and Maintenance, Transportation, and Working Cash Funds;

(4) The district refuses to provide financial information or cooperate with the State Superintendent in an investigation of the district's financial condition.

No school district shall be certified by the State Board of Education to be in financial difficulty by reason of any of the above circumstances (i) if arising solely as a result of the failure of the county to make any distribution of property tax money due the district at the time such distribution is due; (ii) if arising solely as a result of the failure of the Comptroller to disburse reimbursements in accordance with Sections 14-7.02, 14-7.02b, 14-7.03, 14-13.01, 18-3, 18-11, 18-4.3, and 29-5 for receipt by the school district no later than June 30th of each year; or (iii) if the district clearly demonstrates to the satisfaction of the State Board of Education at the time of its determination that such condition no longer exists. If the State Board of Education certifies that a district in a city with 500,000 inhabitants or more is in financial difficulty, the State Board shall so notify the Governor and the Mayor of the city in which the district is located. The State Board of Education may require school districts certified in financial difficulty, except those districts subject to Article 34A, to develop, adopt and submit a financial plan within 45 days after certification of financial difficulty. The financial plan shall be developed according to guidelines presented to the district by the State Board of Education within 14 days of certification. Such guidelines shall address the specific nature of each district's financial difficulties. Any proposed budget of the district shall be consistent with the financial plan submitted to and approved by the State Board of Education.

A district certified to be in financial difficulty, other than a district subject to Article 34A, shall report to the State Board of Education at such times and in such manner as the State Board may direct, concerning the district's compliance with each financial plan. The State Board may review the district's operations, obtain budgetary data and financial statements, require the district to produce reports, and have access to any other information in the possession of the district that it deems relevant. The State Board may issue recommendations or directives within its powers to the district to assist in compliance with the financial plan. The district shall produce such budgetary data, financial statements, reports and other information and comply with such directives. If the State Board of Education determines that a district has failed to comply with its financial plan, the State Board of Education may rescind approval of the plan and appoint a Financial Oversight Panel for the district as provided in Section 1B-4. This action shall be taken only after the district has been given notice and an opportunity to appear before the State Board of Education to discuss its failure to comply with its financial plan.

No bonds, notes, teachers orders, tax anticipation warrants or other evidences of indebtedness shall be issued or sold by a school district or be legally binding upon or enforceable against a local board of education of a district certified to be in financial difficulty unless and until the financial plan required under this Section has been approved by the State Board of Education.

Any financial watch list distributed by the State Board of Education pursuant to this Section shall designate those school districts on the watch list that would not otherwise be on the watch list were it not for the inability or refusal of the State of Illinois to make timely disbursements of any payments due school districts or to fully reimburse school districts for mandated categorical programs pursuant to reimbursement formulas provided in this School Code.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/1C-2)

Sec. 1C-2. Block grants.

(a) For fiscal year 1999, and each fiscal year thereafter, the State Board of Education shall award to school districts block grants as described in subsection (c). The State Board of Education may adopt rules and regulations necessary to implement this Section. In accordance with Section 2-3.32, all state block grants are subject to an audit. Therefore, block grant receipts and block grant expenditures shall be recorded to the appropriate fund code.

(b) (Blank).

(c) An Early Childhood Education Block Grant shall be created by combining the following programs: Preschool Education, Parental Training and Prevention Initiative. These funds shall be distributed to school districts and other entities on a competitive basis. Eleven percent of this grant shall be used to fund programs for children ages 0-3.

(d) The General Assembly shall appropriate or transfer amounts to the Early Childhood Education Block Grant for the programs specified in subsection (c) of this Section as follows: the Fiscal Year 2009 appropriation plus (1) at least the Fiscal Year 2009 appropriation plus an additional \$45,000,000 for Fiscal Year 2010; (2) at least the previous fiscal year appropriation plus at least an additional \$90,000,000 for Fiscal Year 2011; (3) at least the previous fiscal year appropriation plus at least an additional \$135,000,000 for Fiscal Year 2012; and (4) at least the previous fiscal year appropriation plus at least an additional \$180,000,000 for Fiscal Year 2013. Thereafter, the amount appropriated or transferred to the Early Childhood Education Block Grant each fiscal year shall be the amount from the previous fiscal year, increased by at least the percentage increase, if any, in the Employment Cost Index for Elementary and Secondary Schools, published by the U.S. Bureau of Labor Statistics, for the then most recent, completed calendar year. The Early Childhood Education Block Grant shall not be subject to sweeps, administrative charges, or charge-backs, including, but not limited to, those authorized under Section 8h of the State Finance Act or any other fiscal or budgetary maneuver that would in any way transfer any funds from the Early Childhood Education Block Grant into any other fund of this State.
(Source: P.A. 95-793, eff. 1-1-09.)

(105 ILCS 5/2-3.25c) (from Ch. 122, par. 2-3.25c)

Sec. 2-3.25c. ~~Financial and other awards~~ Rewards and acknowledgements.

(a) The State Board of Education shall implement a system of rewards for school districts, and the schools themselves, whose students and schools consistently meet adequate yearly progress criteria for 2 or more consecutive years and a system to acknowledge schools and districts that meet adequate yearly progress criteria in a given year as specified in Section 2-3.25d of this Code.

(b) Financial awards shall be provided to the schools that the State Superintendent of Education determines have demonstrated the greatest improvement in achieving the education goals of improved student achievement and improved school completion, subject to appropriation by the General Assembly and any limitation set by the State Superintendent on the total amount that may be awarded to a school or school district; provided that such financial awards must not be used to enhance the compensation of staff in school districts having a population not exceeding 500,000.

(c) The State Superintendent of Education may present proclamations or certificates to schools and school systems determined to have met or exceeded the State's education goals under Section 2-3.64 of this Code.

(d) The Education Financial Award System Fund is created as a special fund in the State treasury. All money in the Fund shall be used, subject to appropriation, by the State Board of Education for the purpose of funding financial awards under this Section. The Fund shall consist of all moneys appropriated to the fund by the General Assembly and any gifts, grants, donations, and other moneys received by the State Board of Education for implementation of the awards system.

Any unexpended or unencumbered moneys remaining in the Education Financial Award System Fund at the end of a fiscal year shall remain in the Fund and shall not revert or be credited or transferred to the General Revenue Fund nor be transferred to any other fund. Any interest derived from the deposit and investment of moneys in the Education Financial Award System Fund shall remain in the Fund and shall not be credited to the General Revenue Fund. The Education Financial Award System Fund must be appropriated and expended only for the awards system. The awards are subject to audit requirements established by the State Board of Education.

(e) If a school or school district meets adequate yearly progress criteria for 2 consecutive school years, that school or district shall be exempt from review and approval of its improvement plan for the next 2 succeeding school years.

(Source: P.A. 93-470, eff. 8-8-03.)

(105 ILCS 5/2-3.25d) (from Ch. 122, par. 2-3.25d)

[May 28, 2009]

Sec. 2-3.25d. Academic early warning and watch status.

(a) Beginning with the 2005-2006 school year, unless the federal government formally disapproves of such policy through the submission and review process for the Illinois Accountability Workbook, those schools that do not meet adequate yearly progress criteria for 2 consecutive annual calculations in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall be placed on academic early warning status for the next school year. Schools on academic early warning status that do not meet adequate yearly progress criteria for a third annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall remain on academic early warning status. Schools on academic early warning status that do not meet adequate yearly progress criteria for a fourth annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall be placed on initial academic watch status. Schools on academic watch status that do not meet adequate yearly progress criteria for a fifth or subsequent annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall remain on academic watch status. Schools on academic early warning or academic watch status that meet adequate yearly progress criteria for one annual calculation shall be considered as having met expectations and shall be removed from any status designation.

The school district of a school placed on either academic early warning status or academic watch status may appeal the status to the State Board of Education in accordance with Section 2-3.25m of this Code.

A school district that has one or more schools on academic early warning or academic watch status shall prepare a revised School Improvement Plan or amendments thereto setting forth the district's expectations for removing each school from academic early warning or academic watch status and for improving student performance in the affected school or schools. Districts operating under Article 34 of this Code may prepare the School Improvement Plan required under Section 34-2.4 of this Code.

The revised School Improvement Plan for a school that is initially placed on academic early warning status or that remains on academic early warning status after a third annual calculation must be approved by the school board (and by the school's local school council in a district operating under Article 34 of this Code, unless the school is on probation pursuant to subsection (c) of Section 34-8.3 of this Code).

The revised School Improvement Plan for a school that is initially placed on academic watch status after a fourth annual calculation must be approved by the school board (and by the school's local school council in a district operating under Article 34 of this Code, unless the school is on probation pursuant to subsection (c) of Section 34-8.3 of this Code).

The revised School Improvement Plan for a school that remains on academic watch status after a fifth annual calculation must be approved by the school board (and by the school's local school council in a district operating under Article 34 of this Code, unless the school is on probation pursuant to subsection (c) of Section 34-8.3 of this Code). In addition, the district must develop a school restructuring plan for the school that must be approved by the school board (and by the school's local school council in a district operating under Article 34 of this Code).

A school on academic watch status that does not meet adequate yearly progress criteria for a sixth annual calculation shall implement its approved school restructuring plan beginning with the next school year, subject to the State interventions specified in Section 2-3.25f of this Code.

(b) Beginning with the 2005-2006 school year, unless the federal government formally disapproves of such policy through the submission and review process for the Illinois Accountability Workbook, those school districts that do not meet adequate yearly progress criteria for 2 consecutive annual calculations in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall be placed on academic early warning status for the next school year. Districts on academic early warning status that do not meet adequate yearly progress criteria for a third annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall remain on academic early warning status. Districts on academic early warning status that do not meet adequate yearly progress criteria for a fourth annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall be placed on initial academic watch status. Districts on academic watch status that do not meet adequate yearly progress criteria for a fifth or subsequent annual calculation in the same subgroup and in the same subject or in their participation rate, attendance rate, or graduation rate shall remain on academic watch status. Districts on academic early warning or academic watch status that meet adequate yearly progress criteria for one annual calculation shall be considered as having met expectations and shall be removed from any status designation.

A district placed on either academic early warning status or academic watch status may appeal the

status to the State Board of Education in accordance with Section 2-3.25m of this Code.

Districts on academic early warning or academic watch status shall prepare a District Improvement Plan or amendments thereto setting forth the district's expectations for removing the district from academic early warning or academic watch status and for improving student performance in the district.

All District Improvement Plans must be approved by the school board.

(c) All new and revised School and District Improvement Plans shall be developed in collaboration with parents, staff in the affected school or school district and their exclusive bargaining representatives, if any, and outside experts. All revised School and District Improvement Plans shall be developed, submitted, and monitored pursuant to rules adopted by the State Board of Education. The revised Improvement Plan shall address measurable outcomes for improving student performance so that such performance meets adequate yearly progress criteria as specified by the State Board of Education and shall include a staff professional development plan developed at least in cooperation with staff or, if applicable, the exclusive bargaining representatives of the staff. All school districts required to revise a School Improvement Plan in accordance with this Section shall establish a peer review process for the evaluation of School Improvement Plans.

(d) All federal requirements apply to schools and school districts utilizing federal funds under Title I, Part A of the federal Elementary and Secondary Education Act of 1965.

(e) The State Board of Education, from any moneys it may have available for this purpose, must implement and administer a grant program that provides 2-year grants to school districts on the academic watch list and other school districts that have the lowest achieving students, as determined by the State Board of Education, to be used to improve student achievement. In order to receive a grant under this program, a school district must establish an accountability program. The accountability program must involve the use of statewide testing standards and local evaluation measures. A grant shall be automatically renewed when achievement goals are met. The Board may adopt any rules necessary to implement and administer this grant program.

(f) In addition to any moneys available under subsection (e) of this Section, a school district required to maintain School and District Improvement Plans under this Section, including a school district organized under Article 34 of this Code, shall annually receive from the State an amount equal to \$150 times the number of full-time certified teachers and administrators it employs for developing and implementing its mandatory School and District Improvement Plans, including its staff professional development plan.

(Source: P.A. 93-470, eff. 8-8-03; 93-890, eff. 8-9-04; 94-666, eff. 8-23-05; 94-875, eff. 7-1-06.)

(105 ILCS 5/2-3.25d-5 new)

Sec. 2-3.25d-5. Educational improvement plan.

(a) Except for school districts required to develop School and District Improvement Plans under Section 2-3.25d of this Code, each school district shall develop, in compliance with rules promulgated by the State Board of Education, an educational improvement plan that must include (i) measures for improving school district, school building, and individual student performance and (ii) a staff professional development plan developed at least in cooperation with staff or, if applicable, the exclusive bargaining representatives of the staff. The district shall develop the educational improvement plan in collaboration with parents, staff, and the staff's exclusive bargaining representatives, if any.

(105 ILCS 5/2-3.53a)

Sec. 2-3.53a. New principal mentoring program.

(a) In this Section, "new principal" means a principal of a public school who has less than 2 full school years of experience as a principal in a public school in this State. Beginning on July 1, 2007, and subject to an annual appropriation by the General Assembly, to establish a new principal mentoring program for new principals. Any individual who is hired as a principal in the State of Illinois on or after July 1, 2007 shall participate in a new principal mentoring program for the duration of his or her first year as a principal and must complete the program in accordance with the requirements established by the State Board of Education by rule or, for a school district created by Article 34 of this Code, in accordance with the provisions of Section 34-18.27 of this Code. School districts created by Article 34 are not subject to the requirements of subsection (b), (c), (d), (e), (f), or (g) of this Section. The new principal mentoring program shall match an experienced principal who meets the requirements of subsection (b) of this Section with each new principal in his or her first year in that position in order to assist the new principal in the development of his or her professional growth and to provide guidance during the new principal's first year of service.

(b) Any individual who has been a principal in Illinois for 3 or more years and who has demonstrated success as an instructional leader, as determined by the State Board by rule, is eligible to apply to be a mentor under a new principal mentoring program. Mentors shall complete mentoring training by entities

approved by the State Board and meet any other requirements set forth by the State Board and by the school district employing the mentor.

(c) The State Board shall certify an entity or entities approved to provide training of mentors.

(d) A mentor shall be assigned to a new principal based on (i) similarity of grade level or type of school, (ii) learning needs of the new principal, and (iii) geographical proximity of the mentor to the new principal. The principal, in collaboration with the mentor, shall identify areas for improvement of the new principal's professional growth, including, but not limited to, each of the following:

- (1) Analyzing data and applying it to practice.
- (2) Aligning professional development and instructional programs.
- (3) Building a professional learning community.
- (4) Observing classroom practices and providing feedback.
- (5) Facilitating effective meetings.
- (6) Developing distributive leadership practices.
- (7) Facilitating organizational change.

The mentor shall not be required to provide an evaluation of the new principal on the basis of the mentoring relationship.

(e) On or after January 1, 2008 and on or after January 1 of each year thereafter, each mentor and each new principal shall complete a survey of progress on a form developed by their respective school districts. On or before July 1, 2008 and on or after July 1 of each year thereafter, the State Board shall facilitate a review and evaluate the mentoring training program in collaboration with the approved providers. Each new principal and his or her mentor must complete a verification form developed by the State Board in order to certify their completion of a new principal mentoring program.

(f) The requirements of this Section do not apply to any individual who has previously served as an assistant principal in Illinois acting under an administrative certificate for 5 or more years and who is hired, on or after July 1, 2007, as a principal by the school district in which the individual last served as an assistant principal, although such an individual may choose to participate in this program or shall be required to participate by the school district.

(f-5) A separate appropriation shall annually be made for the purposes of this Section for each new principal, as defined by this Section, for each of 2 school years for the purpose of providing one or more of the following:

- (1) Mentor principal compensation.
- (2) Mentor principal training.
- (3) Program administration, not to exceed 20% of the total program cost.

The General Assembly shall annually appropriate \$3,800,000 for the principal mentoring, leadership, and professional development program.

(g) The State Board may adopt any rules necessary for the implementation of this Section.

(Source: P.A. 94-1039, eff. 7-20-06.)

(105 ILCS 5/2-3.53b new)

Sec. 2-3.53b. New superintendent mentoring program.

(a) Beginning on July 1, 2010 and subject to an annual appropriation by the General Assembly, to establish a new superintendent mentoring program for new superintendents. Any individual who begins serving as a superintendent in this State on or after July 1, 2010 and has not previously served as a school district superintendent in this State shall participate in the new superintendent mentoring program for the duration of his or her first 2 school years as a superintendent and must complete the program in accordance with the requirements established by the State Board of Education by rule. The new superintendent mentoring program shall match an experienced superintendent who meets the requirements of subsection (b) of this Section with each new superintendent in his or her first 2 school years in that position in order to assist the new superintendent in the development of his or her professional growth and to provide guidance during the new superintendent's first 2 school years of service.

(b) Any individual who has actively served as a school district superintendent in this State for 3 or more years and who has demonstrated success as an instructional leader, as determined by the State Board of Education by rule, is eligible to apply to be a mentor under the new superintendent mentoring program. Mentors shall complete mentoring training through a provider selected by the State Board of Education and shall meet any other requirements set forth by the State Board and by the school district employing the mentor.

(c) Under the new superintendent mentoring program, a provider selected by the State Board of Education shall assign a mentor to a new superintendent based on (i) similarity of grade level or type of

school district, (ii) learning needs of the new superintendent, and (iii) geographical proximity of the mentor to the new superintendent. The new superintendent, in collaboration with the mentor, shall identify areas for improvement of the new superintendent's professional growth, including, but not limited to, each of the following:

- (1) Analyzing data and applying it to practice.
- (2) Aligning professional development and instructional programs.
- (3) Building a professional learning community.
- (4) Effective school board relations.
- (5) Facilitating effective meetings.
- (6) Developing distributive leadership practices.
- (7) Facilitating organizational change.

The mentor must not be required to provide an evaluation of the new superintendent on the basis of the mentoring relationship.

(d) From January 1, 2011 until May 15, 2011 and from January 1 until May 15 each year thereafter, each mentor and each new superintendent shall complete a survey of progress of the new superintendent on a form developed by the school district. On or before September 1, 2011 and on or before September 1 of each year thereafter, the provider selected by the State Board of Education shall submit a detailed annual report to the State Board of how the appropriation for the new superintendent mentoring program was spent, details on each mentor-mentee relationship, and a qualitative evaluation of the outcomes. The provider shall develop a verification form that each new superintendent and his or her mentor must complete and submit to the provider to certify completion of each year of the new superintendent mentoring program by July 15 immediately following the school year just completed.

(e) The requirements of this Section do not apply to any individual who has previously served as an assistant superintendent in a school district in this State acting under an administrative certificate for 5 or more years and who, on or after July 1, 2010, begins serving as a superintendent in the school district where he or she had served as an assistant superintendent immediately prior to being named superintendent, although such an individual may choose to participate in the new superintendent mentoring program or may be required to participate by the school district. The requirements of this Section do not apply to any superintendent or chief executive officer of a school district organized under Article 34 of this Code.

(f) The State Board may adopt any rules that are necessary for the implementation of this Section.
(105 ILCS 5/2-3.64b new)

Sec. 2-3.64b. Performance measures.

(a) In this Section:

"Growth model assessment" means a statistical system for educational outcome assessment that uses measures of student learning to enable the estimation of teacher, school, and school district statistical distributions and that conforms to or is consistent with applicable State and federal laws and regulations to the extent practicable. The statistical system shall use available and appropriate data as input to account for differences in prior student attainment, such that the impact that the teacher, school, and school district have on the educational progress of students may be estimated on a student attainment constant basis. The impact that a teacher, school, or school district has on the progress or lack of progress in educational advancement or learning of a student is referred to in this Section as the "effect" of the teacher, school, or school district on the educational progress of students.

"School" includes a charter school.

"Teacher" includes a teacher in a charter school.

(b) No later than July 1, 2013, the State Board of Education shall establish a statewide growth model assessment system to measure the annual increase or growth in each student's performance relative to a standard year of academic growth on the assessments provided for in Section 2-3.64 of this Code and other performance indicators that the State Board may identify. In developing such a system, the State Board shall coordinate with school districts, including a school district organized under Article 34 of this Code, that have or that are in the process of developing local growth model assessment systems.

(c) The growth model assessment system shall reliably estimate school district, school, and teacher effects on students' academic achievement over time, control for student characteristics, and use an independently verifiable statistical methodology to produce such estimates.

(d) A specific teacher's effect on the educational progress of students may not be used as a part of a formal personnel evaluation until data from 3 complete academic years are obtained and unless the district and the exclusive bargaining representative of the district's teachers, if any, have agreed to its use as part of an alternative evaluation plan under Section 24A-5 or 24A-8 of this Code. Teacher effect data must not be retained for use in evaluations for more than the most recent 5 years. A student must have

been present for 150 days of classroom instruction per year or 75 days of classroom instruction per semester before that student's record is attributable to a specific teacher. Records from any student who is eligible for special education services under federal law must not be used as part of the growth model assessment.

(e) The State Board of Education shall provide growth model assessment data to each school district as soon as practicable after receipt of such data, but in no case later than December 1. The aggregate growth model assessment estimates for each school district and school shall also be included in each school district's report card under Section 10-17a of this Code.

(f) All identifiable individual student performance data, information, and reports shall be deemed confidential, shall not be a public record, and shall not be disclosed; provided that such information shall be made available only to a student's classroom teacher and other appropriate educational personnel and to the student's parent or guardian.

(g) All identifiable teacher effects data, information, and reports shall be deemed confidential, shall not be a public record, and shall not be disclosed without the teacher's express written consent, except to appropriate personnel in the district in which the teacher is employed.

(h) The data, information, and reports referred to in subsection (f) of this Section shall not constitute a school student record under Section 2 of the Illinois School Student Records Act and shall otherwise be exempt from disclosure under Section 6 of the Illinois School Student Records Act. The data, information, and reports referred to in subsections (f) and (g) of this Section shall not constitute a public record under Section 2 of the Freedom of Information Act and shall otherwise be exempt from disclosure under subdivisions (a) and (b) of subsection (1) of Section 7 of the Freedom of Information Act. Nothing in this Section prevents the State Board of Education from releasing or otherwise disclosing such data, information, and reports to any person associated with a recognized institution of higher education for the purpose of research, analysis, or statistical reporting or planning, provided that no student or teacher can be identified from the data, information, or report released and the person to whom the data, information, or report is released signs an affidavit agreeing to comply with all applicable statutes pertaining to confidential student and personnel records.

(i) As provided in Sections 2-3.25d, 2-3.25f, and 2-3.25h of this Code, the State Board of Education shall establish a coherent and sustained system of assistance and support for schools not meeting identified levels of achievement or not showing specified levels of progress, as determined by the State Board based upon the schools' growth model assessment results. As provided in Section 2-3.25f of this Code, the State Board of Education shall specify appropriate levels of assistance and intervention for schools that receive an unacceptable rating on student performance for the absolute student achievement standard or on progress on improved student achievement.

(j) The State Board of Education, from any moneys it may have available for the purposes set forth in this Section, must implement and administer a grant program that provides 2-year grants to school districts, including a school district organized under Article 34 of this Code, as determined by the State Board of Education, to be used to develop local growth model assessment systems. The Board may adopt any rules necessary to implement and administer this grant program.

(105 ILCS 5/2-3.148 new)

Sec. 2-3.148. The Digital Learning Technology Grant Program.

(a) As used in this Section, unless the context otherwise requires, "information technology education" means education in the development, design, use, maintenance, repair, and application of information technology systems or equipment, including, but not limited to, computers, the Internet, telecommunications devices and networks, and multi-media techniques.

(b) There is created the Digital Learning Technology Grant Program to provide money to school districts and charter schools to use in integrating information technology and scientific equipment as tools to measurably improve teaching and learning in grades 9 through 12 in this State's public schools. The State Board of Education shall administer the grant program through the acceptance, review, and recommendation of applications submitted pursuant to this Section.

(c) Grants awarded through the grant program created under this Section shall continue for 4 fiscal years and may be renewed as provided by rule of the State Board of Education. Grants awarded through the program shall be paid out of any money appropriated or credited to the Digital Learning Technology Grant Fund. A school district or charter school shall use any moneys obtained through the grant program to integrate information technology education into the 9th grade through 12th grade curriculum. In the case of a school district, such integration shall be accomplished in one or more public schools in the district. The school district or charter school may contract with one or more private entities for assistance in integrating information technology education into the curriculum. In addition, school districts and charter schools are encouraged to partner with businesses for assistance in integrating information

technology education into the curriculum.

(d) The State Board of Education shall adopt rules for the administration and implementation of the grant program created under this Section. The first grants shall be awarded through the program for the 2010-2011 school year. Grants shall be awarded annually thereafter.

(e) Any school district or charter school that seeks to participate in the grant program created under this Section shall submit an application to the State Board of Education in the form and according to the deadlines established by rule of the State Board of Education. The application shall include the following information:

(1) if the applicant is a school district, the names of the schools that will receive the benefits of the grant;

(2) the current level of information technology education integration at the recipient schools;

(3) the school district's or charter school's plan for integrating information technology education into the 9th grade through 12th grade curriculum, including any specific method or program to be used, and any entities with whom the school district or charter school plans to contract or cooperate in achieving the integration;

(4) the specific, measurable goals to be achieved and the actual deliverables to be produced through the integration of information technology education into the curriculum, a deadline for achieving those goals, and a proposed method of measuring whether the goals were achieved;

(5) any businesses with which the school district or charter school has partnered to improve the availability and integration of information technology education within the curriculum; and

(6) any other information that may be specified by rule of the State Board of Education.

(f) In recommending and awarding grants through the program, the State Board of Education shall consider the following criteria:

(1) the degree to which information technology education is already integrated into the curriculum of the applying school district or charter school to ensure that those school districts and charter schools with the least degree of integration receive the grants first;

(2) the degree to which the applicant's proposed plan for using the grant moneys will result in integration of information technology tools and scientific equipment in a manner that measurably improves teaching and learning;

(3) the validity, clarity, and measurability of the goals established by the applicant and the validity of the proposed methods for measuring achievement of the goals;

(4) the accountability system of specific measures and deliverables to determine a baseline and annually assess improvements in teaching and learning;

(5) any other financial resources available to the applicant for integrating information technology education into the curriculum;

(6) the degree to which the applicant is cooperating or partnering with businesses to improve the availability and integration of information technology education in the curriculum; the State Board of Education shall apply this criteria with the goal of encouraging such partnerships;

(7) the strength and capacity of the applicant to collaborate with the science, technology, engineering and mathematics education center network under Section 4.5 of the Illinois Mathematics and Science Academy Law and to provide open source networking with other public schools in this State; and

(8) any other criteria established by rule of the State Board of Education to ensure that grants are awarded to school districts and charter schools that demonstrate the greatest need and the most valid, effective plan for integrating information technology education into the curriculum.

(g) In awarding grants through the grant program, the State Board of Education shall ensure, to the extent possible, that the grants are awarded to school districts and charter schools in all areas of this State.

(h) Nothing in this Section shall be construed to limit or otherwise affect any school district's ability to enter into an agreement with or receive funds from any private entity.

(i) Each school district and charter school that receives a grant through the grant program created under this Section shall, by August 1 of the school year for which the grant was awarded, submit to the State Board of Education a report specifying the following information:

(1) the manner in which the grant moneys were used;

(2) the progress made toward achieving the goals specified in the grant recipient's application;

(3) any additional entities and businesses with whom the grant recipient has contracted or partnered with the goal of achieving greater integration of information technology education in the 9th grade through 12th grade curriculum;

(4) the recipient school district's and charter school's plan for continuing the integration of

information technology education into the curriculum, regardless of whether the grant is renewed; and

(5) any other information specified by rule of the State Board of Education.

(j) Notwithstanding subsection (i) of this Section, a recipient school need not submit a report for any academic year in which no grants are made through the grant program.

(k) The Digital Learning Technology Grant Fund is created as a special fund in the State treasury. All money in the Fund shall be used, subject to appropriation, by the State Board of Education for the purpose of funding grants under this Section.

(l) The State Board of Education may solicit and accept money in the form of gifts, contributions, and grants to be deposited into the Digital Learning Technology Grant Fund. The acceptance of federal grants for purposes of this Section does not commit State funds nor place an obligation upon the General Assembly to continue the purposes for which the federal funds are made available.

(105 ILCS 5/2-3.149 new)

Sec. 2-3.149. Best practices clearinghouse.

(a) Beginning July 1, 2010 and subject to appropriation, the State Board of Education shall establish an online clearinghouse of information relating to best practices of campuses and school districts regarding instruction, public school finance, resource allocation, and business practices. To the extent practicable, the State Board of Education shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient school districts rather than general guidelines relating to school district operation. The information must be accessible by school districts and interested members of the public.

(b) The State Board of Education shall solicit and collect from exemplary or recognized school districts, charter schools, and other institutions determined by the State Board of Education examples of best practices relating to instruction, public school finance, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation and incentive systems, bilingual education and special language programs, compensatory education programs, and the effective use of instructional technology, including online courses.

(c) The State Board of Education may contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses and school districts as provided by this Section. In addition to any other considerations required by law, the State Board of Education must consider an applicant's demonstrated competence and qualifications in analyzing school district practices in awarding a contract under this subsection (c).

(d) The State Board of Education may purchase from available funds curriculum and other instructional tools identified under this Section to provide for use by school districts.

(105 ILCS 5/2-3.150 new)

Sec. 2-3.150. The Science, Technology, Engineering, and Mathematics Education Center Grant Program.

(a) As used in this Section, unless the context otherwise requires:

"Grant program" means the science, technology, engineering, and mathematics education center grant program created in this Section.

"Science, technology, engineering, and mathematics education" or "STEM" means learning experiences that integrate innovative curricular, instructional, and assessment strategies and materials, laboratory and mentorship experiences, and authentic inquiry-based and problem centered instruction to stimulate learning in the areas of science, technology, engineering, and mathematics.

"Science, technology, engineering, and mathematics education innovation center" means a center operated by a school district, a charter school, the Illinois Mathematics and Science Academy, or a joint collaborative partnership that provides STEM teaching and learning experiences, materials, laboratory and mentorship experiences, and educational seminars, institutes or workshops for students and teachers.

(b) The Illinois Mathematics and Science Academy, in consultation and partnership with the State Board of Education, the Board of Higher Education, the business community, the entrepreneurial technology community, and professionals, including teachers, in the field of science, technology, engineering, and mathematics shall create a strategic plan for developing a whole systems approach to redesigning prekindergarten through grade 12 STEM education in this State, including, but not limited to, designing and creating integrative teaching and learning networks among science, technology, engineering, and mathematics innovation education centers, university and corporate research facilities, and established STEM laboratories, businesses, and the Illinois Mathematics and Science Academy.

(c) At a minimum, the plan shall provide direction for program design and development, including the following:

(1) continuous generation and sharing of curricular, instructional, assessment, and program development materials and information about STEM teaching and learning throughout the network;

(2) identification of curricular, instructional, and assessment goals that reflect the research in cognition and the development of creativity in STEM fields and the systemic changes in STEM education, so as to be consistent with inquiry-based and problem-centered instruction in science, technology, engineering, and mathematics. Such goals shall also reflect current frameworks, standards, and guidelines, such as those defined by the National Research Council (National Academy of Science), the American Association for the Advancement of Science, the National Council of Teachers of Mathematics, the National Science Teachers Association, and professional associations in STEM fields;

(3) identification of essential teacher competencies and a comprehensive plan for recruiting, mentoring, and retaining STEM teachers, especially those in under-resourced schools and school districts; creation of a community of practice among STEM center educators and other teachers of science, technology, engineering, and mathematics as part of a network of promising practices in teaching; and the establishment of recruitment, mentoring, and retention plans for Golden Apple teachers in STEM fields and Illinois STEM teachers who have received national board certification and are also part of the STEM innovation network;

(4) a statement of desired competencies for STEM learning by students;

(5) a description of recommended courses of action to improve educational experiences, programs, practices, and service;

(6) the improvement of access and availability of STEM courses, especially for rural school districts and particularly to those groups which are traditionally underrepresented through the Illinois Virtual High School; the plan shall include goals for using telecommunications facilities as recommended by a telecommunications advisory commission;

(7) expectations and guidelines for designing and developing a dynamic, creative, and engaged teaching network;

(8) a description of the laboratory and incubator model for the STEM centers;

(9) support for innovation and entrepreneurship in curriculum, instruction, assessment, and professional development; and

(10) cost estimates.

(d) The plan shall provide a framework that enables the teachers, school districts, and institutions of higher education to operate as an integrated system. The plan shall provide innovative mechanisms and incentives to the following:

(1) educational providers, as well as professional associations, business and university partners, and educational receivers (students and teachers) at the prekindergarten through grade 12 and postsecondary levels to design and implement innovative curricula, including experiences, mentorships, institutes, and seminars and to develop new materials and activities for these;

(2) course providers and receivers for leveraging distance learning technologies through the Illinois Virtual High School and applying distance learning instructional design techniques, taking into consideration the work of a telecommunications advisory commission;

(3) prekindergarten through grade 12 teachers to encourage them to take graduate STEM courses and degree programs; such incentives may include a tuition matching program;

(4) appropriate State agencies, federal agencies, professional organizations, public television stations, and businesses and industries to involve them in the development of the strategic plan; and

(5) businesses, industries, and individuals for volunteering their time and community resources.

(e) The plan shall provide a mechanism for incorporating the cost for accomplishing these goals into the ongoing operating budget beginning in 2010.

(f) There is created the Science and Technology Education Center Grant Program to provide development and operating moneys in the form of matching funds for existing or proposed nonprofit STEM education centers. At a minimum, each STEM center that receives a grant shall not only provide STEM education activities to students enrolled in the school district or charter school and materials and educational workshops to teachers employed by the school district or charter school, but also, as part of generative and innovative teaching and learning network, shall share information with all STEM centers, the Illinois Mathematics and Science Academy, and partner associations or businesses.

(g) School districts, charter schools, the Illinois Mathematics and Science Academy, and joint collaborative partnerships may establish science and technology education centers or may contract with regional offices of education, intermediate service centers, public community colleges, 4-year institutions of higher education, non-profit or for-profit education providers, youth service agencies, community-based organizations, or other appropriate entities to establish science and technology education centers within the public school system. Districts and charter schools may individually operate alternative learning opportunities programs or may collaborate with 2 or more districts or charter schools or do both to create and operate science and technology education centers.

(h) Beginning with the 2010-2011 school year, the State Board of Education shall, subject to available appropriations, annually award one or more science, technology, engineering, and mathematics education center grants for the development and operation of STEM centers.

A school district, a charter school, the Illinois Mathematics and Science Academy, or a joint collaborative partnership may apply for a STEM center grant pursuant to procedures and time lines specified by rule of the State Board of Education.

(i) The State Board of Education, in selecting one or more school districts, charter schools, or joint collaborative partnerships or the Illinois Mathematics and Science Academy for receipt of a grant, shall give priority to applicants that are geographically located farthest from other STEM centers or applicants that have less opportunity for science, technology, engineering, and mathematics resource support. The State Board shall also consider the following factors:

(1) the facility, equipment, and technology that are or will be provided and the activities and range of programs that are or will be offered by the STEM education center;

(2) the strength and capacity of the school district or charter school to work as a network cooperatively with the Illinois Mathematics and Science Academy, other STEM centers, universities and STEM laboratories, businesses, and industries; and

(3) recommendations of the Illinois P-20 Council and the Illinois Mathematics and Science Academy.

(j) A STEM center grant shall be payable from moneys appropriated to the STEM Education Center Grant Fund.

The State Board of Education shall specify the amount to be awarded to each school district, charter school, or joint collaborative partnership that is selected to receive a grant and to the Illinois Mathematics and Science Academy, if selected to receive a grant. The amount awarded to a new STEM center for start-up costs shall not exceed \$1,000,000 for the first fiscal year and may not be renewed. The amount awarded to an operating STEM center for operating costs shall not exceed \$500,000 for one fiscal year and shall be renewed annually for 5 consecutive years if the STEM center is meeting its accountability goals and its role as an active partner in a generative teaching and learning network.

(k) Each school district, charter school, or joint collaborative partnership that receives a grant pursuant to the grant program and the Illinois Mathematics and Science Academy, if selected to receive a grant, shall demonstrate, prior to receiving any actual moneys, that the center has received or has a written commitment for matching funds from other public or private sources in the amount of a dollar-for-dollar match with the amount of the grant. This requirement may be waived upon application to and approval by the State Board of Education based on a showing of continued need or financial hardship.

(l) The State Board of Education shall promulgate such rules as are required in this Section and such additional rules as may be required for implementation of the grant program.

(m) Each school district or charter school that receives a grant through the grant program shall, by the close of each school year for which the grant was awarded, submit to the Illinois Mathematics and Science Academy and the State Board of Education a report specifying the following information:

(1) the manner in which the grant money was used;

(2) the progress made toward achieving the goals and producing the deliverables specified in the grant recipient's application;

(3) any additional entities and businesses with whom the grant recipient has contracted or partnered with the goal of achieving greater integration of information technology education in prekindergarten through grade 12 curriculum;

(4) the recipient school district's or charter school's plan for continuing the integration of information technology education into the curriculum, regardless of whether the grant is renewed;

(5) the documentation demonstrating effective digital collaboration and networking, technological cooperation and sharing, and personal networking via innovative, entrepreneurial networks;

(6) a description of innovative instructional methods;

(7) evidence of staff training and outreach to teachers beyond those working in the STEM education center; and

(8) any other information specified by rule of the State Board of Education.

(n) Notwithstanding the other provisions of this Section, a recipient school need not submit a report for any academic year in which no grants are made through the grant program.

(o) The STEM Education Center Grant Fund is created as a special fund in the State treasury. All money in the Fund shall be used, subject to appropriation, by the State Board of Education for the purpose of funding science, technology, engineering, and mathematics education center grants awarded under this Section.

(p) The State Board of Education may solicit and accept money in the form of gifts, contributions, and

grants to be deposited in the STEM Education Center Grant Fund. The acceptance of federal grants for purposes of this Section does not commit State funds nor place an obligation upon the General Assembly to continue the purposes for which the federal funds are made available.

(105 ILCS 5/2-3.151 new)

Sec. 2-3.151. School Improvement Partnership Pool Fund.

(a) The School Improvement Partnership Pool Fund is created as a special fund in the State treasury. All interest earned on moneys in the Fund shall be deposited into the Fund. The School Improvement Partnership Pool Fund shall not be subject to sweeps, administrative charges, or charge-backs, such as, but not limited to, those authorized under Section 8h of the State Finance Act, nor any other fiscal or budgetary maneuver that would in any way transfer any funds from the School Improvement Partnership Pool Fund into any other fund of the State.

(b) Beginning in Fiscal Year 2011, moneys in the School Improvement Partnership Pool Fund shall be used, subject to appropriation, by the State Board of Education for a competitive grant program to provide school districts with demonstrated academic and financial need quality, integrated support systems, such as training for staff, tutoring programs for students, small school initiatives, literacy coaching, proven programs such as reduced class size, extended learning time, and after school and summer school programs, programs to engage parents, and other systems as determined by the State Board of Education.

(c) School districts eligible to apply to the State Board of Education for a grant under subsection (b) of this Section shall be limited to those (i) with any school that has not met adequate yearly progress under the federal No Child Left Behind Act of 2001 for at least 2 consecutive years or (ii) that have been designated through the State Board of Education's School District Financial Profile System as on financial warning or financial watch status. The State Board may, by rule, establish any additional procedures with respect to this grant program.

(105 ILCS 5/2-3.152 new)

Sec. 2-3.152. Resource management service.

(a) The State Board of Education shall establish and maintain an Internet web-based resource management service for all school districts on or before July 1, 2013.

(b) The resource management service shall identify resource configurations that contribute to improving internal resources for instructional programs, provide action-oriented analysis and solutions, and give school districts the ability to explore different scenarios of resource allocation.

(c) Annually, by the first day of October, an Internet web-based preliminary resource allocation report must be generated for each school district and delivered via the Internet to each district superintendent for use by the management team and the exclusive bargaining agents of the school district's employees. This report shall identify potential cost savings or resource reallocation opportunities for the district in 5 core areas of school district spending. These core areas are instruction, operation and maintenance, transportation, food service, and central services. This analysis shall show district spending in detailed subcategories compared to demographically or operationally similar peer school districts. The web-based resource allocation reports generated under this Section constitute preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed or policies or actions are formulated and therefore exempt from disclosure under subdivision (f) of subsection (1) of Section 7 of the Freedom of Information Act.

(d) Each school district shall have the ability through the on-line resource allocation report to test various resource allocation scenarios relative to pre-defined peers as well as geographic peers and the most efficient peers statewide. Each district shall have the ability to choose specific combinations of districts for comparison.

(e) The resource management service shall contain, based on the spending and demographic profile of the school district, action-oriented information, such as effective best practices in schools districts, diagnostic questions, and other management or community considerations that may be implemented to capture savings identified in the resource allocation report.

(f) The resource management service must be initiated and maintained through a contract between the State Board of Education and an independent third party specializing in school market research within this State and the United States. Costs to establish and maintain this service and train school district personnel in the use of this service shall be supplied by the General Assembly to the State Board of Education through an annual appropriation of no less than \$2 per student based on the prior year total of enrolled students in public schools in this State. Up to 25% of the annual appropriation may be allocated by the State Board of Education to hire personnel and facilitate data collection. No less than 25% of the annual appropriation shall be utilized by the State Board of Education to deliver training to school district personnel in the use of the management service. Such training shall be delivered by certificated

school business officials or State Board of Education trained personnel and may be provided through administrator academies and mentoring programs. The State Board of Education may establish contracts with other organizations to provide such training and mentoring.

In the event that a district does not employ a certificated school business official, a least one employee must be trained and certified in the use of the resource management service. In addition, a representative of the exclusive bargaining agents of the school district's employees shall be invited to be trained and certified.

(g) The State Board of Education shall identify the data required to implement the resource management service and develop annual data reporting instruments designed to collect the information from each school district.

The State Board of Education may provide grants to school districts to permit those school districts to develop and implement a plan for a shared services agreement in the following areas: operation and maintenance and central services.

(h) Annually, the certificated school business official or resource management service trained employee in each school district shall review and certify that the resource allocation report has been received and reviewed by the management team and the exclusive bargaining agent of the district. Subsequently, a report must be filed with the State Board of Education identifying the considerations that will be studied as a result of such analysis. In addition, any implementation of strategies or reallocation of resources associated with the resource management service must be annually reported to the Board of Education, the exclusive bargaining agents of the school district's employees, and subsequently, the State Board of Education. The State Board shall annually prepare a cumulative report to be posted electronically containing those initiatives studied and implemented on a statewide basis.

(105 ILCS 5/3-6.5 new)

Sec. 3-6.5. Regional office evaluation and accountability.

(a) The State Board of Education shall contract with a third party to maintain information regarding the performance of regional education service centers. Such information shall include the following:

(1) district effectiveness and efficiency in districts served resulting from technical assistance and program support;

(2) direct services provided or regionally shared services arranged by the service center that produce more economical and efficient school operations;

(3) direct services provided or regionally shared services arranged by the service center that provide for assistance in core services; and

(4) grants received for implementation of State initiatives and the results achieved by the service center under the terms of the grant contract.

Regional offices of education and educational service centers must promptly comply with any requests for information under this Section from the State Board of Education or its third party contractor.

(b) The regional superintendent of schools shall report, in writing, to the governing county board or boards, no later than January 1, 2011 and each January 1 thereafter, stating (i) the balance on hand at the time of the last report and all receipts since that date, with the sources from which they were derived; (ii) the amount distributed to each of the school treasurers in the governing county or counties; and (iii) any balance on hand. At the same time the regional superintendent shall present for inspection his or her books and vouchers for all expenditures, and submit in writing a statement of the condition of the institute fund and of any other funds in his or her care, custody, or control.

(c) Each regional superintendent of schools, whether for a multi-county or for a single county educational service region, shall present for inspection or otherwise make available to the Auditor General, or to the agents designated by the Auditor General, all financial statements, books, vouchers, and other records required to be so presented or made available pursuant to Section 2-3.17a of this Code and the rules of the Auditor General pursuant to that Section.

(d) Beginning December 1, 2011, and annually thereafter, the State Board of Education shall, through the contractor referenced in subsection (a) of this Section, publish, online, a cumulative report with information about each regional office of education and educational service center. Each report must include, with respect to the prior fiscal year, the following:

(1) an audit of the office's finances, which shall be provided by the Auditor General to the State Board of Education or its third party contractor for this purpose;

(2) the information required to be maintained under subsection (a) of this Section; and

(3) the results of the service evaluation report annually made by the Office of the Lieutenant Governor pursuant to Section 2-3.112 of this Code.

(105 ILCS 5/3-7) (from Ch. 122, par. 3-7)

Sec. 3-7. Failure to prepare and forward information. If the trustees of schools of any township in Class II county school units, or any school district which forms a part of a Class II county school unit but which is not subject to the jurisdiction of the trustees of schools of any township in which such district is located, or any school district in any Class I county school units fail to prepare and forward or cause to be prepared and forwarded to the regional superintendent of schools, reports required by this Act, the regional superintendent of schools shall furnish such information or he shall employ a person or persons to furnish such information, as far as practicable. Such person shall have access to the books, records and papers of the school district to enable him or them to prepare such reports, and the school district shall permit such person or persons to examine such books, records and papers at such time and such place as such person or persons may desire for the purpose aforesaid. For such services the regional superintendent of schools shall bill the district an amount to cover the cost of preparation of such reports if he employs a person to prepare such reports.

Each school district shall, as of June 30 of each year, cause an audit of its accounts to be made by a person lawfully qualified to practice public accounting as regulated by the Illinois Public Accounting Act. Such audit shall include (i) development of a risk assessment of district internal controls, (ii) an annual review and update of the risk assessment, and (iii) an annual management letter that analyzes significant risk assessment findings, recommends changes for strengthening controls and reducing identified risks, and specifies timeframes for implementation of these recommendations, as well as financial statements of the district applicable to the type of records required by other sections of this Act and in addition shall set forth the scope of audit and shall include the professional opinion signed by the auditor, or if such an opinion is denied by the auditor, shall set forth the reasons for such denial. Each school district shall on or before October 15 of each year, submit an original and one copy of ~~the such~~ audit to the regional superintendent of schools in the educational service region having jurisdiction in which case the regional superintendent of schools shall be relieved of responsibility in regard to the accounts of the school district. If any school district fails to supply the regional superintendent of schools with a copy of such audit report on or before October 15, or within such time extended by the regional superintendent of schools from that date, not to exceed 60 days, then it shall be the responsibility of the regional superintendent of schools having jurisdiction to cause such audit to be made by employing an accountant licensed to practice in the State of Illinois to conduct such audit and shall bill the district for such services, or shall with the personnel of his office make such audit to his satisfaction and bill the district for such service. In the latter case, if the audit is made by personnel employed in the office of the regional superintendent of schools having jurisdiction, then the regional superintendent of schools shall not be relieved of the responsibility as to the accountability of the school district. The copy of the audit shall be forwarded by the regional superintendent to the State Board of Education on or before November 15 of each year and shall be filed by the State Board of Education. Beginning on July 1, 2010, all school districts shall utilize a competitive request for proposals process at least once every 5 years when contracting for such an annual audit, provided that school districts with existing contracts of less than 5 years in length that are in effect on July 1, 2010 shall utilize a competitive request for proposals process when contracting for an annual audit after the expiration date of the existing contract.

Each school district that is the administrative district for several school districts operating under a joint agreement as authorized by this Act shall, as of June 30 each year, cause an audit of the accounts of the joint agreement to be made by a person lawfully qualified to practice public accounting as regulated by the Illinois Public Accounting Act. Such audit shall include (i) development of a risk assessment of district internal controls, (ii) an annual review and update of the risk assessment, and (iii) an annual management letter that analyzes significant risk assessment findings, recommends changes for strengthening controls and reducing identified risks, and specifies timeframes for implementation of these recommendations, as well as financial statements of the operation of the joint agreement applicable to the type of records required by this Act and, in addition, shall set forth the scope of the audit and shall include the professional opinion signed by the auditor, or if such an opinion is denied, the auditor shall set forth the reason for such denial. Each administrative district of a joint agreement shall on or before October 15 each year, submit an original and one copy of such audit to the regional superintendent of schools in the educational service region having jurisdiction in which case the regional superintendent of schools shall be relieved of responsibility in regard to the accounts of the joint agreement. The copy of the audit shall be forwarded by the regional superintendent to the State Board of Education on or before November 15 of each year and shall be filed by the State Board of Education. The cost of such an audit shall be apportioned among and paid by the several districts who are parties to the joint agreement, in the same manner as other costs and expenses accruing to the districts jointly. Beginning on July 1, 2010, all school districts operating under a joint agreement shall utilize a competitive request for proposals process at least once every 5 years when contracting for such an annual audit, provided that all school

districts operating under a joint agreement with existing contracts of less than 5 years in length that are in effect on July 1, 2010 shall utilize a competitive request for proposals process when contracting for an annual audit after the expiration date of the existing contract.

The State Board of Education shall determine the adequacy of the audits. All audits shall be kept on file in the office of the State Board of Education.

(Source: P.A. 86-1441; 87-473.)

(105 ILCS 5/10-16.10 new)

Sec. 10-16.10. Board member leadership training.

(a) This Section shall apply to all school board members serving pursuant to Section 10-10 of this Code who have been elected on or after the effective date of this amendatory Act of the 96th General Assembly or appointed to fill a vacancy of at least one year's duration on or after the effective date of this amendatory Act of the 96th General Assembly.

(b) It is the policy of this State to encourage every voting member of a board of education of a school district elected or appointed for a term beginning on or after the effective date of this amendatory Act of the 96th General Assembly, within a year after the effective date of this amendatory Act of the 96th General Assembly or the first year of his or her term, to complete a minimum of 4 hours of professional development leadership training covering topics in education and labor law, financial oversight and accountability, and fiduciary responsibilities of a school board member.

(c) The training on financial oversight, accountability, and fiduciary responsibilities may be provided by an association established under this Code for the purpose of training school board members or by other qualified providers approved by the State Board of Education, in conjunction with an association so established.

(105 ILCS 5/10-17a) (from Ch. 122, par. 10-17a)

Sec. 10-17a. Better schools accountability.

(1) Policy and Purpose. It shall be the policy of the State of Illinois that each school district in this State, including special charter districts and districts subject to the provisions of Article 34, shall submit to parents, taxpayers of such district, the Governor, the General Assembly, and the State Board of Education a school report card assessing the performance of its schools and students. The report card shall be an index of school performance measured against statewide and local standards and will provide information to make prior year comparisons and to set future year targets through the school improvement plan.

(2) Reporting Requirements. Each school district shall prepare a report card in accordance with the guidelines set forth in this Section which describes the performance of its students by school attendance centers and by district and the district's financial resources and use of financial resources. Such report card shall be presented at a regular school board meeting subject to applicable notice requirements, posted on the school district's Internet web site, if the district maintains an Internet web site, made available to a newspaper of general circulation serving the district, and, upon request, sent home to a parent (unless the district does not maintain an Internet web site, in which case the report card shall be sent home to parents without request). If the district posts the report card on its Internet web site, the district shall send a written notice home to parents stating (i) that the report card is available on the web site, (ii) the address of the web site, (iii) that a printed copy of the report card will be sent to parents upon request, and (iv) the telephone number that parents may call to request a printed copy of the report card. In addition, each school district shall submit the completed report card to the office of the district's Regional Superintendent which shall make copies available to any individuals requesting them.

The report card shall be completed and disseminated prior to October 31 in each school year. The report card shall contain, but not be limited to, actual local school attendance center, school district and statewide data indicating the present performance of the school, the State norms and the areas for planned improvement for the school and school district.

(3) (a) The report card shall include the following applicable indicators of attendance center, district, and statewide student performance: percent of students who exceed, meet, or do not meet standards established by the State Board of Education pursuant to Section 2-3.25a; growth model assessment estimates for each district, subject to a statewide growth model assessment system being established and data being available pursuant to Section 2-3.64b of this Code; composite and subtest means on nationally normed achievement tests for college bound students; student attendance rates; chronic truancy rate; dropout rate; graduation rate; and student mobility, turnover shown as a percent of transfers out and a percent of transfers in.

(b) The report card shall include the following descriptions for the school, district, and State: average class size; amount of time per day devoted to mathematics, science, English and social science at primary, middle and junior high school grade levels; number of students taking the Prairie State

Achievement Examination under subsection (c) of Section 2-3.64, the number of those students who received a score of excellent, and the average score by school of students taking the examination; pupil-teacher ratio; pupil-administrator ratio; operating expenditure per pupil; district expenditure by fund; average administrator salary; and average teacher salary. The report card shall also specify the amount of money that the district receives from all sources, including without limitation subcategories specifying the amount from local property taxes, the amount from general State aid, the amount from other State funding, and the amount from other income. The report card shall also include the 5 components of the financial rating and the total financial rating scores from the State Financial Profile.

(c) The report card shall include applicable indicators of parental involvement in each attendance center. The parental involvement component of the report card shall include the percentage of students whose parents or guardians have had one or more personal contacts with the students' teachers during the school year concerning the students' education, and such other information, commentary, and suggestions as the school district desires. For the purposes of this paragraph, "personal contact" includes, but is not limited to, parent-teacher conferences, parental visits to school, school visits to home, telephone conversations, and written correspondence. The parental involvement component shall not single out or identify individual students, parents, or guardians by name.

(d) The report card form shall be prepared by the State Board of Education and provided to school districts by the most efficient, economic, and appropriate means.

(e) The report card shall include an indicator describing whether the school district has improved, declined, or remained stable in the aggregate percentage of students making at least one-year's academic growth each year, subject to a statewide growth model assessment system being established and data being available pursuant to Section 2-3.64b of this Code.

(f) Except for schools in a school district organized under Article 34 of this Code, the report card shall include a comparison of the following indicators to a benchmark group of at least 5 schools that have similar demographics as defined by the State Board of Education:

(1) percentage of students in the aggregate making one year's progress in one year's time in reading, writing, and mathematics, subject to a statewide growth model assessment system being established and data being available pursuant to Section 2-3.64b of this Code;

(2) State Financial Profile rating; and

(3) instruction per pupil expenditures.

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

(105 ILCS 5/10-17b new)

Sec. 10-17b. Financial policies. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, each school board shall adopt a formal, written financial policy. The policy may include information in the following areas:

(1) Debt capacity, issuance, and management.

(2) Capital asset management.

(3) Reserve or stabilization fund goals.

(4) Periodic budget to actual comparison reports.

(5) Fees and charges.

(6) The use of one-time revenue.

(7) Risk management related to internal controls.

(8) Purchasing.

(9) Vehicle acquisition and maintenance.

The school board shall make the policy publicly available.

(105 ILCS 5/10-17c new)

Sec. 10-17c. Long-term financial plan. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, each school board shall develop a long-term financial plan that extends over at least a 3-year period and that is updated and approved annually. The plan must include multi-year forecasts of revenues, expenditures, and debt. The school board may make the plan available to the public by publishing it as a separate document and submitting it with the annual budget or by posting the plan as a document on the school district's Internet website, if any. The forecasts that are the foundation of the plan must be available to participants in the budget process before budgetary decisions are made. The public must be provided opportunities for providing dialog with respect to the long-term financial planning process. Public access and review shall take place as part of the official budget hearing process in accordance with Section 17-1 of this Code, which requires the posting of notice and making documents available to the general public at least 30 days in advance of the budget hearing.

(105 ILCS 5/10-17d new)

Sec. 10-17d. Capital improvement plan. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, each school board shall develop a 5-year capital improvement plan that is updated and approved annually. The plan must include a summary list of the description of the capital projects to be completed over the next 5 years, along with projected expenditures, and revenue sources. The school board shall make the plan available to the public. The school board shall hold a public hearing on the capital improvement plan, which hearing may be held at a regularly scheduled meeting of the board. This hearing shall be held in the same manner and subject to the same notice and other requirements as the public hearing required prior to adoption of the budget in conformity with Section 17-1 of this Code, which requires the posting of notice and making documents available to the general public at least 30 days in advance of the budget hearing.

(105 ILCS 5/10-20.20) (from Ch. 122, par. 10-20.20)

Sec. 10-20.20. Protection from suit. To indemnify and protect school districts, members of school boards, employees, volunteer personnel authorized in Sections 10-22.34, 10-22.34a and 10-22.34b of this Code, mentors of certified staff as authorized in Article 21A and Sections 2-3.53a, 2-3.53b, and 34-18.33 of this Code, and student teachers against civil rights damage claims and suits, constitutional rights damage claims and suits and death and bodily injury and property damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of employment or under the direction of the board or related to any mentoring services provided to certified staff of the school district. Such indemnification and protection shall extend to persons who were members of school boards, employees of school boards, authorized volunteer personnel, mentors of certified staff, or student teachers at the time of the incident from which a claim arises. No agent may be afforded indemnification or protection unless he was a member of a school board, an employee of a board, an authorized volunteer, a mentor of certified staff, or a student teacher at the time of the incident from which the claim arises.

(Source: P.A. 79-210.)

(105 ILCS 5/10-20.45)

Sec. ~~10-20.45~~ ~~10-20.41~~. Pay for performance.

(a) In this Section:

"Growth model assessment" means the statewide growth model assessment system established by the State Board of Education to measure the annual increase or growth in each student's performance relative to a standard year of academic growth on the assessments provided for in Section 2-3.64b of this Code and other performance indicators that the State Board identifies and that reliably estimates school district, school, and teacher effects on students' academic achievement over time, controls for student characteristics, and uses an independently verifiable statistical methodology to produce such estimates.

"Value-added" means the improvement gains in student achievement that are made each year based on pre-test and post-test outcomes.

~~A Beginning with all newly negotiated collective bargaining agreements entered into after the effective date of this amendatory Act of the 95th General Assembly, a school board and the exclusive bargaining representative, if any, may include a performance-based teacher compensation plan in the subject of its collective bargaining agreement. Nothing in this Section shall preclude the school board and the exclusive bargaining representative from agreeing to and implementing a new performance-based teacher compensation plan prior to the termination of a the current collective bargaining agreement in existence on the effective date of this amendatory Act of the 96th General Assembly.~~

(b) The ~~new~~ teacher compensation plan bargained and agreed to by the school board and the exclusive bargaining representative under subsection (a) of this Section shall provide certificated personnel with base salaries and shall also provide that any increases in the compensation of individual teachers or groups of teachers beyond base salaries shall be pursuant, but not limited to, any of the following elements:

(1) ~~Excellent Superior~~ teacher evaluations based on multiple evaluations of their classroom teaching.

(2) ~~Evaluation of a teacher's student classroom-level achievement growth as measured using a growth model assessment or a value-added model. "Value added" means the improvement gains in student achievement that are made each year based on pre-test and post-test outcomes.~~

(3) ~~School-level Evaluation of school level achievement growth as measured using a growth model assessment or a value-added model. "Value added" means the improvement gains in student achievement that are made each year based on pre-test and post-test outcomes.~~

(4) Demonstration of superior, outstanding performance by an individual teacher or

groups of teachers through the meeting of unique and specific teaching practice objectives defined and agreed to in advance in any given school year.

(5) Preparation for meeting and contribution to the broader needs of the school organization (e.g., curriculum development, family liaison and community outreach, implementation of a professional development program for faculty, and participation in school management).

~~(c) (Blank). A school board and exclusive bargaining representative that initiate their own performance based teacher compensation program shall submit the new plan to the State Board of Education for review not later than 150 days before the plan is to become effective. If the plan does not conform to this Section, the State Board of Education shall return the plan to the school board and the exclusive bargaining representative for modification. The school board and the exclusive bargaining representative shall then have 30 days after the plan is returned to them to submit a modified plan.~~

(d) Nothing in this Section precludes a school board and an exclusive bargaining representative from agreeing to and implementing a performance-based teacher compensation plan that does not meet the requirements of subsection (b) of this Section and does not use standardized test scores as a basis for determining compensation under the plan in order to provide new incentives to improve student learning and to recruit and retain highly qualified teachers, encourage highly qualified teachers to undertake challenging assignments, and support teachers' roles in improving students' educational achievement.

(Source: P.A. 95-707, eff. 1-11-08; revised 1-23-08.)

(105 ILCS 5/10-20.46 new)

Sec. 10-20.46. School district financial accountability.

(a) A school board shall annually include a user-friendly executive summary as part of the district's budget. The executive summary shall include all of the following:

(1) The district's major goals and objectives.

(2) A discussion of the major financial factors and trends affecting the budget, such as changes in revenues, enrollment, and debt.

(3) A description of the budget process.

(4) An overview of revenues and expenditures for all funds, including at least 3 to 5 years of prior and future trends, based on data from the annual financial report.

(5) An explanation of significant financial and demographic trends.

(6) An explanation of the reasons for a budget deficit and an explanation of how the deficit is being addressed in accordance with Section 17-1 of this Code.

(7) A budget forecast for at least 3 to 5 years in the future.

(8) Student enrollment trends, including a future forecast.

(9) The number of personnel by type.

(10) Changes in both the long term and short term debt burden.

(b) Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, a school board shall annually include in the full budget document the following items; any or all of the following items may be published as separate documents provided that they are explicitly referenced in the annual budget and attached thereto and provided that they are made publicly available at the same time as the tentative budget document:

(1) An organizational chart.

(2) Formal financial policies pursuant to Section 10-17b of this Code.

(3) The district's long-term financial plan pursuant to Section 10-17c of this Code or a summary of the long-term financial plan.

(4) The district's capital improvement plan pursuant to Section 10-17d of this Code or a summary of the capital improvement plan.

(105 ILCS 5/10-22.45) (from Ch. 122, par. 10-22.45)

Sec. 10-22.45. A school board shall ~~to~~ establish an audit committee, which may include and to appoint members of the board, ~~or~~ other appropriate officers, ~~or~~ persons who do not serve on the board ~~to the committee~~, to review audit reports and any other financial reports and documents, including management letters prepared by or on behalf of the board. Nothing in this Section prohibits a school district from maintaining its own internal audit function.

(Source: P.A. 82-644.)

(105 ILCS 5/14-13.01) (from Ch. 122, par. 14-13.01)

Sec. 14-13.01. Reimbursement payable by State; Amounts. Reimbursement for furnishing special educational facilities in a recognized school to the type of children defined in Section 14-1.02 shall be paid to the school districts in accordance with Section 14-12.01 for each school year ending June 30 by the State Comptroller out of any money in the treasury appropriated for such purposes on the presentation of vouchers by the State Board of Education.

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The reimbursement shall be limited to funds expended for construction and maintenance of special education facilities designed and utilized to house instructional programs, diagnostic services, other special education services for children with disabilities and reimbursement as provided in Section 14-13.01. There shall be no reimbursement for construction and maintenance of any administrative facility separated from special education facilities designed and utilized to house instructional programs, diagnostic services and other special education services for children with disabilities.

(a) For children who have not been identified as eligible for special education and for eligible children with physical disabilities, including all eligible children whose placement has been determined under Section 14-8.02 in hospital or home instruction, 1/2 of the teacher's salary but not more than \$1,000 annually per child or \$8,000 per teacher for the 1985-1986 school year through the 2005-2006 school year and \$1,000 per child or \$9,000 per teacher for the 2006-2007 school year through the 2008-2009 school year, \$11,839 per teacher for the 2009-2010 school year, \$12,786 per teacher for the 2010-2011 school year, \$14,679 per teacher for the 2011-2012 school year, and \$20,358 per teacher for the 2012-2013 school year and for each school year thereafter, whichever is less. Thereafter, the reimbursement per teacher shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year. Children to be included in any reimbursement under this paragraph must regularly receive a minimum of one hour of instruction each school day, or in lieu thereof of a minimum of 5 hours of instruction in each school week in order to qualify for full reimbursement under this Section. If the attending physician for such a child has certified that the child should not receive as many as 5 hours of instruction in a school week, however, reimbursement under this paragraph on account of that child shall be computed proportionate to the actual hours of instruction per week for that child divided by 5.

(b) For children described in Section 14-1.02, 4/5 of the cost of transportation for each such child, whom the State Superintendent of Education determined in advance requires special transportation service in order to take advantage of special educational facilities. Transportation costs shall be determined in the same fashion as provided in Section 29-5. For purposes of this subsection (b), the dates for processing claims specified in Section 29-5 shall apply.

(c) For each professional worker excluding those included in subparagraphs (a), (d), (e), and (f) of this Section, the annual sum of \$8,000 for the 1985-1986 school year through the 2005-2006 school year, ~~and~~ \$9,000 for the 2006-2007 school year through the 2008-2009 school year, \$11,839 for the 2009-2010 school year, \$12,786 for the 2010-2011 school year, \$14,679 for the 2011-2012 school year, and \$20,358 for the 2012-2013 school year. Thereafter, the reimbursement per professional worker shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year and for each school year thereafter.

(d) For one full time qualified director of the special education program of each school district which maintains a fully approved program of special education the annual sum of \$8,000 for the 1985-1986 school year through the 2005-2006 school year, ~~and~~ \$9,000 for the 2006-2007 through the 2008-2009 school year, \$11,839 for the 2009-2010 school year, \$12,786 for the 2010-2011 school year, \$14,679 for the 2011-2012 school year, and \$20,358 for the 2012-2013 school year. Thereafter, the reimbursement for the director shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year, school year and for each school year thereafter. Districts participating in a joint agreement special education program shall not receive such reimbursement if reimbursement is made for a director of the joint agreement program.

(e) For each school psychologist as defined in Section 14-1.09 the annual sum of \$8,000 for the 1985-1986 school year through the 2005-2006 school year, ~~and~~ \$9,000 for the 2006-2007 school year through the 2008-2009 school year, \$11,839 for the 2009-2010 school year, \$12,786 for the 2010-2011 school year, \$14,679 for the 2011-2012 school year, and \$20,358 for the 2012-2013 school year. Thereafter, the reimbursement per school psychologist shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year and for each school year thereafter.

(f) For each qualified teacher working in a fully approved program for children of preschool age who are deaf or hard-of-hearing the annual sum of \$8,000 for the 1985-1986 school year through the 2005-2006 school year, ~~and~~ \$9,000 for the 2006-2007 school year through the 2008-2009 school year, \$11,839 for the 2009-2010 school year, \$12,786 for the 2010-2011 school year, \$14,679 for the 2011-2012 school year, and \$20,358 for the 2012-2013 school year. Thereafter, the reimbursement per

teacher shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year and for each school year thereafter.

(g) For readers, working with blind or partially seeing children 1/2 of their salary but not more than \$400 annually per child. Readers may be employed to assist such children and shall not be required to be certified but prior to employment shall meet standards set up by the State Board of Education.

(h) For necessary non-certified employees working in any class or program for children defined in this Article, 1/2 of the salary paid or \$2,800 annually per employee through the 2005-2006 school year, ~~and~~ \$3,500 per employee for the 2006-2007 school year through the 2008-2009 school year, \$4,406 per employee for the 2009-2010 school year, \$4,708 per employee for the 2010-2011 school year, \$5,313 per employee for the 2011-2012 school year, and \$7,126 per employee for the 2012-2013 school year and for each school year thereafter, whichever is less. Thereafter, the reimbursement per employee shall be increased annually by a percentage increase equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics' Employment Cost Index for Elementary and Secondary Schools for the then most recently completed calendar year.

The State Board of Education shall set standards and prescribe rules for determining the allocation of reimbursement under this section on less than a full time basis and for less than a school year.

When any school district eligible for reimbursement under this Section operates a school or program approved by the State Superintendent of Education for a number of days in excess of the adopted school calendar but not to exceed 235 school days, such reimbursement shall be increased by 1/180 of the amount or rate paid hereunder for each day such school is operated in excess of 180 days per calendar year.

Notwithstanding any other provision of law, any school district receiving a payment under this Section or under Section 14-7.02, 14-7.02b, or 29-5 of this Code may classify all or a portion of the funds that it receives in a particular fiscal year or from general State aid pursuant to Section 18-8.05 of this Code as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referenced in this Section), regardless of the source or timing of the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any payments or general State aid to be classified under this paragraph and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this paragraph by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this paragraph by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to that funding program, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of providing services.

(Source: P.A. 95-415, eff. 8-24-07; 95-707, eff. 1-11-08.)

(105 ILCS 5/17-2.11c new)

Sec. 17-2.11c. Non-referendum bonds. Upon the certification of an architect and subsequent approval by the regional superintendent of schools and the State Board of Education, a board of education governing a school district having not more than 500,000 inhabitants may issue non-referendum bonds for the purposes described in Section 19-3 of this Code. Such bonds may be issued in excess of any statutory limitation as to debt prescribed in Article 19 of this Code.

(105 ILCS 5/18-8.05)

Sec. 18-8.05. Basis for apportionment of general State financial aid and supplemental general State aid to the common schools for the 1998-1999 and subsequent school years.

(A) General Provisions.

(1) The provisions of this Section apply to the 1998-1999 and subsequent school years. The system of general State financial aid provided for in this Section is designed to assure that, through a combination of State financial aid and required local resources, the financial support provided each pupil in Average Daily Attendance equals or exceeds a prescribed per pupil Foundation Level. This formula approach imputes a level of per pupil Available Local Resources and provides for the basis to calculate a per pupil level of general State financial aid that, when added to Available Local Resources, equals or exceeds the

Foundation Level. The amount of per pupil general State financial aid for school districts, in general, varies in inverse relation to Available Local Resources. Per pupil amounts are based upon each school district's Average Daily Attendance as that term is defined in this Section.

(2) In addition to general State financial aid, school districts with specified levels or concentrations of pupils from low income households are eligible to receive supplemental general State financial aid grants as provided pursuant to subsection (H). The supplemental State aid grants provided for school districts under subsection (H) shall be appropriated for distribution to school districts as part of the same line item in which the general State financial aid of school districts is appropriated under this Section.

(3) To receive financial assistance under this Section, school districts are required to file claims with the State Board of Education, subject to the following requirements:

(a) Any school district which fails for any given school year to maintain school as required by law, or to maintain a recognized school is not eligible to file for such school year any claim upon the Common School Fund. In case of nonrecognition of one or more attendance centers in a school district otherwise operating recognized schools, the claim of the district shall be reduced in the proportion which the Average Daily Attendance in the attendance center or centers bear to the Average Daily Attendance in the school district. A "recognized school" means any public school which meets the standards as established for recognition by the State Board of Education. A school district or attendance center not having recognition status at the end of a school term is entitled to receive State aid payments due upon a legal claim which was filed while it was recognized.

(b) School district claims filed under this Section are subject to Sections 18-9 and 18-12, except as otherwise provided in this Section.

(c) If a school district operates a full year school under Section 10-19.1, the general State aid to the school district shall be determined by the State Board of Education in accordance with this Section as near as may be applicable.

(d) (Blank).

(4) Except as provided in subsections (H) and (L), the board of any district receiving any of the grants provided for in this Section may apply those funds to any fund so received for which that board is authorized to make expenditures by law.

School districts are not required to exert a minimum Operating Tax Rate in order to qualify for assistance under this Section.

(5) As used in this Section the following terms, when capitalized, shall have the meaning ascribed herein:

(a) "Average Daily Attendance": A count of pupil attendance in school, averaged as provided for in subsection (C) and utilized in deriving per pupil financial support levels.

(b) "Available Local Resources": A computation of local financial support, calculated on the basis of Average Daily Attendance and derived as provided pursuant to subsection (D).

(c) "Corporate Personal Property Replacement Taxes": Funds paid to local school districts pursuant to "An Act in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, and amending and repealing certain Acts and parts of Acts in connection therewith", certified August 14, 1979, as amended (Public Act 81-1st S.S.-1).

(c-5) "ECI" means the Employment Cost Index as published by the U.S. Bureau of Labor Statistics.

(d) "Foundation Level": A prescribed level of per pupil financial support as provided for in subsection (B).

(e) "Operating Tax Rate": All school district property taxes extended for all purposes, except Bond and Interest, Summer School, Rent, Capital Improvement, and Vocational Education Building purposes.

(B) Foundation Level.

(1) The Foundation Level is a figure established by the State representing the minimum level of per pupil financial support that should be available to provide for the basic education of each pupil in Average Daily Attendance. As set forth in this Section, each school district is assumed to exert a sufficient local taxing effort such that, in combination with the aggregate of general State financial aid provided the district, an aggregate of State and local resources are available to meet the basic education needs of pupils in the district.

(2) For the 1998-1999 school year, the Foundation Level of support is \$4,225. For the 1999-2000 school year, the Foundation Level of support is \$4,325. For the 2000-2001 school year, the Foundation Level of support is \$4,425. For the 2001-2002 school year and 2002-2003 school year, the Foundation Level of support is \$4,560. For the 2003-2004 school year, the Foundation Level of support is \$4,810.

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For the 2004-2005 school year, the Foundation Level of support is \$4,964. For the 2005-2006 school year, the Foundation Level of support is \$5,164. For the 2006-2007 school year, the Foundation Level of support is \$5,334. For the 2007-2008 school year, the Foundation Level of support is \$5,734.

(3) For the 2008-2009 school year and each school year through the 2009-2010 school year thereafter, the Foundation Level of support is \$5,959 ~~or such greater amount as may be established by law by the General Assembly.~~

(4) It is the intention of the 96th General Assembly that the Foundation Level of support be increased to the Education Funding Advisory Board's recommendation for the 2006-2007 school year and be inflation adjusted to the 2013-2014 school year, which would create a Foundation Level of \$8,410, and that this Foundation Level of support be reached over a 4-year, phase-in period to allow for thoughtful planning by school districts on the utilization of this funding to best enhance education.

For (i) school year 2010-2011, the Foundation Level of support is \$6,540; (ii) school year 2011-2012, the Foundation Level of support is \$7,141; (iii) school year 2012-2013, the Foundation Level of support is \$7,764; and (iv) school year 2013-2014, the Foundation Level of support is \$8,410. For each school year thereafter, the Foundation Level of support shall be equal to the Foundation Level of support for the immediately preceding completed school year, increased by the percentage increase, if any, in the ECI published for the then most recently completed calendar year or such greater amount as may be established by law by the General Assembly.

(C) Average Daily Attendance.

(1) For purposes of calculating general State aid pursuant to subsection (E), an Average Daily Attendance figure shall be utilized. The Average Daily Attendance figure for formula calculation purposes shall be the monthly average of the actual number of pupils in attendance of each school district, as further averaged for the best 3 months of pupil attendance for each school district. In compiling the figures for the number of pupils in attendance, school districts and the State Board of Education shall, for purposes of general State aid funding, conform attendance figures to the requirements of subsection (F).

(2) The Average Daily Attendance figures utilized in subsection (E) shall be the requisite attendance data for the school year immediately preceding the school year for which general State aid is being calculated or the average of the attendance data for the 3 preceding school years, whichever is greater. The Average Daily Attendance figures utilized in subsection (H) shall be the requisite attendance data for the school year immediately preceding the school year for which general State aid is being calculated.

(D) Available Local Resources.

(1) For purposes of calculating general State aid pursuant to subsection (E), a representation of Available Local Resources per pupil, as that term is defined and determined in this subsection, shall be utilized. Available Local Resources per pupil shall include a calculated dollar amount representing local school district revenues from local property taxes and from Corporate Personal Property Replacement Taxes, expressed on the basis of pupils in Average Daily Attendance. Calculation of Available Local Resources shall exclude any tax amnesty funds received as a result of Public Act 93-26.

(2) In determining a school district's revenue from local property taxes, the State Board of Education shall utilize the equalized assessed valuation of all taxable property of each school district as of September 30 of the previous year. The equalized assessed valuation utilized shall be obtained and determined as provided in subsection (G).

(3) For school districts maintaining grades kindergarten through 12, local property tax revenues per pupil shall be calculated as the product of the applicable equalized assessed valuation for the district multiplied by 3.00%, and divided by the district's Average Daily Attendance figure. For school districts maintaining grades kindergarten through 8, local property tax revenues per pupil shall be calculated as the product of the applicable equalized assessed valuation for the district multiplied by 2.30%, and divided by the district's Average Daily Attendance figure. For school districts maintaining grades 9 through 12, local property tax revenues per pupil shall be the applicable equalized assessed valuation of the district multiplied by 1.05%, and divided by the district's Average Daily Attendance figure.

For partial elementary unit districts created pursuant to Article 11E of this Code, local property tax revenues per pupil shall be calculated as the product of the equalized assessed valuation for property within the partial elementary unit district for elementary purposes, as defined in Article 11E of this Code, multiplied by 2.06% and divided by the district's Average Daily Attendance figure, plus the product of the equalized assessed valuation for property within the partial elementary unit district for high school purposes, as defined in Article 11E of this Code, multiplied by 0.94% and divided by the

district's Average Daily Attendance figure.

(4) The Corporate Personal Property Replacement Taxes paid to each school district during the calendar year 2 years before the calendar year in which a school year begins, divided by the Average Daily Attendance figure for that district, shall be added to the local property tax revenues per pupil as derived by the application of the immediately preceding paragraph (3). The sum of these per pupil figures for each school district shall constitute Available Local Resources as that term is utilized in subsection (E) in the calculation of general State aid.

(E) Computation of General State Aid.

(1) For each school year, the amount of general State aid allotted to a school district shall be computed by the State Board of Education as provided in this subsection.

(2) For any school district for which Available Local Resources per pupil is less than the product of 0.93 times the Foundation Level, general State aid for that district shall be calculated as an amount equal to the Foundation Level minus Available Local Resources, multiplied by the Average Daily Attendance of the school district.

(3) For any school district for which Available Local Resources per pupil is equal to or greater than the product of 0.93 times the Foundation Level and less than the product of 1.75 times the Foundation Level, the general State aid per pupil shall be a decimal proportion of the Foundation Level derived using a linear algorithm. Under this linear algorithm, the calculated general State aid per pupil shall decline in direct linear fashion from 0.07 times the Foundation Level for a school district with Available Local Resources equal to the product of 0.93 times the Foundation Level, to 0.05 times the Foundation Level for a school district with Available Local Resources equal to the product of 1.75 times the Foundation Level. The allocation of general State aid for school districts subject to this paragraph 3 shall be the calculated general State aid per pupil figure multiplied by the Average Daily Attendance of the school district.

(4) For any school district for which Available Local Resources per pupil equals or exceeds the product of 1.75 times the Foundation Level, the general State aid for the school district shall be calculated as the product of \$218 multiplied by the Average Daily Attendance of the school district.

(5) The amount of general State aid allocated to a school district for the 1999-2000 school year meeting the requirements set forth in paragraph (4) of subsection (G) shall be increased by an amount equal to the general State aid that would have been received by the district for the 1998-1999 school year by utilizing the Extension Limitation Equalized Assessed Valuation as calculated in paragraph (4) of subsection (G) less the general State aid allotted for the 1998-1999 school year. This amount shall be deemed a one time increase, and shall not affect any future general State aid allocations.

(F) Compilation of Average Daily Attendance.

(1) Each school district shall, by July 1 of each year, submit to the State Board of Education, on forms prescribed by the State Board of Education, attendance figures for the school year that began in the preceding calendar year. The attendance information so transmitted shall identify the average daily attendance figures for each month of the school year. Beginning with the general State aid claim form for the 2002-2003 school year, districts shall calculate Average Daily Attendance as provided in subdivisions (a), (b), and (c) of this paragraph (1).

(a) In districts that do not hold year-round classes, days of attendance in August shall be added to the month of September and any days of attendance in June shall be added to the month of May.

(b) In districts in which all buildings hold year-round classes, days of attendance in July and August shall be added to the month of September and any days of attendance in June shall be added to the month of May.

(c) In districts in which some buildings, but not all, hold year-round classes, for the non-year-round buildings, days of attendance in August shall be added to the month of September and any days of attendance in June shall be added to the month of May. The average daily attendance for the year-round buildings shall be computed as provided in subdivision (b) of this paragraph (1). To calculate the Average Daily Attendance for the district, the average daily attendance for the year-round buildings shall be multiplied by the days in session for the non-year-round buildings for each month and added to the monthly attendance of the non-year-round buildings.

Except as otherwise provided in this Section, days of attendance by pupils shall be counted only for sessions of not less than 5 clock hours of school work per day under direct supervision of: (i) teachers, or (ii) non-teaching personnel or volunteer personnel when engaging in non-teaching duties and supervising in those instances specified in subsection (a) of Section 10-22.34 and paragraph 10 of Section 34-18,

with pupils of legal school age and in kindergarten and grades 1 through 12.

Days of attendance by tuition pupils shall be accredited only to the districts that pay the tuition to a recognized school.

(2) Days of attendance by pupils of less than 5 clock hours of school shall be subject to the following provisions in the compilation of Average Daily Attendance.

(a) Pupils regularly enrolled in a public school for only a part of the school day may be counted on the basis of 1/6 day for every class hour of instruction of 40 minutes or more attended pursuant to such enrollment, unless a pupil is enrolled in a block-schedule format of 80 minutes or more of instruction, in which case the pupil may be counted on the basis of the proportion of minutes of school work completed each day to the minimum number of minutes that school work is required to be held that day.

(b) Days of attendance may be less than 5 clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop.

(c) A session of 4 or more clock hours may be counted as a day of attendance upon certification by the regional superintendent, and approved by the State Superintendent of Education to the extent that the district has been forced to use daily multiple sessions.

(d) A session of 3 or more clock hours may be counted as a day of attendance (1) when the remainder of the school day or at least 2 hours in the evening of that day is utilized for an in-service training program for teachers, up to a maximum of 5 days per school year of which a maximum of 4 days of such 5 days may be used for parent-teacher conferences, provided a district conducts an in-service training program for teachers which has been approved by the State Superintendent of Education; or, in lieu of 4 such days, 2 full days may be used, in which event each such day may be counted as a day of attendance; and (2) when days in addition to those provided in item (1) are scheduled by a school pursuant to its school improvement plan adopted under Article 34 or its revised or amended school improvement plan adopted under Article 2, provided that (i) such sessions of 3 or more clock hours are scheduled to occur at regular intervals, (ii) the remainder of the school days in which such sessions occur are utilized for in-service training programs or other staff development activities for teachers, and (iii) a sufficient number of minutes of school work under the direct supervision of teachers are added to the school days between such regularly scheduled sessions to accumulate not less than the number of minutes by which such sessions of 3 or more clock hours fall short of 5 clock hours. Any full days used for the purposes of this paragraph shall not be considered for computing average daily attendance. Days scheduled for in-service training programs, staff development activities, or parent-teacher conferences may be scheduled separately for different grade levels and different attendance centers of the district.

(e) A session of not less than one clock hour of teaching hospitalized or homebound pupils on-site or by telephone to the classroom may be counted as 1/2 day of attendance, however these pupils must receive 4 or more clock hours of instruction to be counted for a full day of attendance.

(f) A session of at least 4 clock hours may be counted as a day of attendance for first grade pupils, and pupils in full day kindergartens, and a session of 2 or more hours may be counted as 1/2 day of attendance by pupils in kindergartens which provide only 1/2 day of attendance.

(g) For children with disabilities who are below the age of 6 years and who cannot attend 2 or more clock hours because of their disability or immaturity, a session of not less than one clock hour may be counted as 1/2 day of attendance; however for such children whose educational needs so require a session of 4 or more clock hours may be counted as a full day of attendance.

(h) A recognized kindergarten which provides for only 1/2 day of attendance by each pupil shall not have more than 1/2 day of attendance counted in any one day. However, kindergartens may count 2 1/2 days of attendance in any 5 consecutive school days. When a pupil attends such a kindergarten for 2 half days on any one school day, the pupil shall have the following day as a day absent from school, unless the school district obtains permission in writing from the State Superintendent of Education. Attendance at kindergartens which provide for a full day of attendance by each pupil shall be counted the same as attendance by first grade pupils. Only the first year of attendance in one kindergarten shall be counted, except in case of children who entered the kindergarten in their fifth year whose educational development requires a second year of kindergarten as determined under the rules and regulations of the State Board of Education.

(i) On the days when the Prairie State Achievement Examination is administered under subsection (c) of Section 2-3.64 of this Code, the day of attendance for a pupil whose school day must be shortened to accommodate required testing procedures may be less than 5 clock hours and shall be

counted towards the 176 days of actual pupil attendance required under Section 10-19 of this Code, provided that a sufficient number of minutes of school work in excess of 5 clock hours are first completed on other school days to compensate for the loss of school work on the examination days.

(G) Equalized Assessed Valuation Data.

(1) For purposes of the calculation of Available Local Resources required pursuant to subsection (D), the State Board of Education shall secure from the Department of Revenue the value as equalized or assessed by the Department of Revenue of all taxable property of every school district, together with (i) the applicable tax rate used in extending taxes for the funds of the district as of September 30 of the previous year and (ii) the limiting rate for all school districts subject to property tax extension limitations as imposed under the Property Tax Extension Limitation Law.

The Department of Revenue shall add to the equalized assessed value of all taxable property of each school district situated entirely or partially within a county that is or was subject to the provisions of Section 15-176 or 15-177 of the Property Tax Code (a) an amount equal to the total amount by which the homestead exemption allowed under Section 15-176 or 15-177 of the Property Tax Code for real property situated in that school district exceeds the total amount that would have been allowed in that school district if the maximum reduction under Section 15-176 was (i) \$4,500 in Cook County or \$3,500 in all other counties in tax year 2003 or (ii) \$5,000 in all counties in tax year 2004 and thereafter and (b) an amount equal to the aggregate amount for the taxable year of all additional exemptions under Section 15-175 of the Property Tax Code for owners with a household income of \$30,000 or less. The county clerk of any county that is or was subject to the provisions of Section 15-176 or 15-177 of the Property Tax Code shall annually calculate and certify to the Department of Revenue for each school district all homestead exemption amounts under Section 15-176 or 15-177 of the Property Tax Code and all amounts of additional exemptions under Section 15-175 of the Property Tax Code for owners with a household income of \$30,000 or less. It is the intent of this paragraph that if the general homestead exemption for a parcel of property is determined under Section 15-176 or 15-177 of the Property Tax Code rather than Section 15-175, then the calculation of Available Local Resources shall not be affected by the difference, if any, between the amount of the general homestead exemption allowed for that parcel of property under Section 15-176 or 15-177 of the Property Tax Code and the amount that would have been allowed had the general homestead exemption for that parcel of property been determined under Section 15-175 of the Property Tax Code. It is further the intent of this paragraph that if additional exemptions are allowed under Section 15-175 of the Property Tax Code for owners with a household income of less than \$30,000, then the calculation of Available Local Resources shall not be affected by the difference, if any, because of those additional exemptions.

This equalized assessed valuation, as adjusted further by the requirements of this subsection, shall be utilized in the calculation of Available Local Resources.

(2) The equalized assessed valuation in paragraph (1) shall be adjusted, as applicable, in the following manner:

(a) For the purposes of calculating State aid under this Section, with respect to any part of a school district within a redevelopment project area in respect to which a municipality has adopted tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment Act, Sections 11-74.4-1 through 11-74.4-11 of the Illinois Municipal Code or the Industrial Jobs Recovery Law, Sections 11-74.6-1 through 11-74.6-50 of the Illinois Municipal Code, no part of the current equalized assessed valuation of real property located in any such project area which is attributable to an increase above the total initial equalized assessed valuation of such property shall be used as part of the equalized assessed valuation of the district, until such time as all redevelopment project costs have been paid, as provided in Section 11-74.4-8 of the Tax Increment Allocation Redevelopment Act or in Section 11-74.6-35 of the Industrial Jobs Recovery Law. For the purpose of the equalized assessed valuation of the district, the total initial equalized assessed valuation or the current equalized assessed valuation, whichever is lower, shall be used until such time as all redevelopment project costs have been paid.

(b) The real property equalized assessed valuation for a school district shall be adjusted by subtracting from the real property value as equalized or assessed by the Department of Revenue for the district an amount computed by dividing the amount of any abatement of taxes under Section 18-170 of the Property Tax Code by 3.00% for a district maintaining grades kindergarten through 12, by 2.30% for a district maintaining grades kindergarten through 8, or by 1.05% for a district maintaining grades 9 through 12 and adjusted by an amount computed by dividing the amount of any abatement of taxes under subsection (a) of Section 18-165 of the Property Tax Code by the

same percentage rates for district type as specified in this subparagraph (b).

(3) For the 1999-2000 school year and each school year thereafter, if a school district meets all of the criteria of this subsection (G)(3), the school district's Available Local Resources shall be calculated under subsection (D) using the district's Extension Limitation Equalized Assessed Valuation as calculated under this subsection (G)(3).

For purposes of this subsection (G)(3) the following terms shall have the following meanings:

"Budget Year": The school year for which general State aid is calculated and awarded under subsection (E).

"Base Tax Year": The property tax levy year used to calculate the Budget Year allocation of general State aid.

"Preceding Tax Year": The property tax levy year immediately preceding the Base Tax Year.

"Base Tax Year's Tax Extension": The product of the equalized assessed valuation utilized by the County Clerk in the Base Tax Year multiplied by the limiting rate as calculated by the County Clerk and defined in the Property Tax Extension Limitation Law.

"Preceding Tax Year's Tax Extension": The product of the equalized assessed valuation utilized by the County Clerk in the Preceding Tax Year multiplied by the Operating Tax Rate as defined in subsection (A).

"Extension Limitation Ratio": A numerical ratio, certified by the County Clerk, in which the numerator is the Base Tax Year's Tax Extension and the denominator is the Preceding Tax Year's Tax Extension.

"Operating Tax Rate": The operating tax rate as defined in subsection (A).

If a school district is subject to property tax extension limitations as imposed under the Property Tax Extension Limitation Law, the State Board of Education shall calculate the Extension Limitation Equalized Assessed Valuation of that district. For the 1999-2000 school year, the Extension Limitation Equalized Assessed Valuation of a school district as calculated by the State Board of Education shall be equal to the product of the district's 1996 Equalized Assessed Valuation and the district's Extension Limitation Ratio. For the 2000-2001 school year and each school year thereafter, the Extension Limitation Equalized Assessed Valuation of a school district as calculated by the State Board of Education shall be equal to the product of the Equalized Assessed Valuation last used in the calculation of general State aid and the district's Extension Limitation Ratio. If the Extension Limitation Equalized Assessed Valuation of a school district as calculated under this subsection (G)(3) is less than the district's equalized assessed valuation as calculated pursuant to subsections (G)(1) and (G)(2), then for purposes of calculating the district's general State aid for the Budget Year pursuant to subsection (E), that Extension Limitation Equalized Assessed Valuation shall be utilized to calculate the district's Available Local Resources under subsection (D).

Partial elementary unit districts created in accordance with Article 11E of this Code shall not be eligible for the adjustment in this subsection (G)(3) until the fifth year following the effective date of the reorganization.

(4) For the purposes of calculating general State aid for the 1999-2000 school year only, if a school district experienced a triennial reassessment on the equalized assessed valuation used in calculating its general State financial aid apportionment for the 1998-1999 school year, the State Board of Education shall calculate the Extension Limitation Equalized Assessed Valuation that would have been used to calculate the district's 1998-1999 general State aid. This amount shall equal the product of the equalized assessed valuation used to calculate general State aid for the 1997-1998 school year and the district's Extension Limitation Ratio. If the Extension Limitation Equalized Assessed Valuation of the school district as calculated under this paragraph (4) is less than the district's equalized assessed valuation utilized in calculating the district's 1998-1999 general State aid allocation, then for purposes of calculating the district's general State aid pursuant to paragraph (5) of subsection (E), that Extension Limitation Equalized Assessed Valuation shall be utilized to calculate the district's Available Local Resources.

(5) For school districts having a majority of their equalized assessed valuation in any county except Cook, DuPage, Kane, Lake, McHenry, or Will, if the amount of general State aid allocated to the school district for the 1999-2000 school year under the provisions of subsection (E), (H), and (J) of this Section is less than the amount of general State aid allocated to the district for the 1998-1999 school year under these subsections, then the general State aid of the district for the 1999-2000 school year only shall be increased by the difference between these amounts. The total payments made under this paragraph (5) shall not exceed \$14,000,000. Claims shall be prorated if they exceed \$14,000,000.

(H) Supplemental General State Aid.

(1) In addition to the general State aid a school district is allotted pursuant to subsection (E), qualifying school districts shall receive a grant, paid in conjunction with a district's payments of general State aid, for supplemental general State aid based upon the concentration level of children from low-income households within the school district. Supplemental State aid grants provided for school districts under this subsection shall be appropriated for distribution to school districts as part of the same line item in which the general State financial aid of school districts is appropriated under this Section. If the appropriation in any fiscal year for general State aid and supplemental general State aid is insufficient to pay the amounts required under the general State aid and supplemental general State aid calculations, then the State Board of Education shall ensure that each school district receives the full amount due for general State aid and the remainder of the appropriation shall be used for supplemental general State aid, which the State Board of Education shall calculate and pay to eligible districts on a prorated basis.

(1.5) This paragraph (1.5) applies only to those school years preceding the 2003-2004 school year. For purposes of this subsection (H), the term "Low-Income Concentration Level" shall be the low-income eligible pupil count from the most recently available federal census divided by the Average Daily Attendance of the school district. If, however, (i) the percentage decrease from the 2 most recent federal censuses in the low-income eligible pupil count of a high school district with fewer than 400 students exceeds by 75% or more the percentage change in the total low-income eligible pupil count of contiguous elementary school districts, whose boundaries are coterminous with the high school district, or (ii) a high school district within 2 counties and serving 5 elementary school districts, whose boundaries are coterminous with the high school district, has a percentage decrease from the 2 most recent federal censuses in the low-income eligible pupil count and there is a percentage increase in the total low-income eligible pupil count of a majority of the elementary school districts in excess of 50% from the 2 most recent federal censuses, then the high school district's low-income eligible pupil count from the earlier federal census shall be the number used as the low-income eligible pupil count for the high school district, for purposes of this subsection (H). The changes made to this paragraph (1) by Public Act 92-28 shall apply to supplemental general State aid grants for school years preceding the 2003-2004 school year that are paid in fiscal year 1999 or thereafter and to any State aid payments made in fiscal year 1994 through fiscal year 1998 pursuant to subsection 1(n) of Section 18-8 of this Code (which was repealed on July 1, 1998), and any high school district that is affected by Public Act 92-28 is entitled to a recomputation of its supplemental general State aid grant or State aid paid in any of those fiscal years. This recomputation shall not be affected by any other funding.

(1.10) This paragraph (1.10) applies to the 2003-2004 school year and each school year thereafter. For purposes of this subsection (H), the term "Low-Income Concentration Level" shall, for each fiscal year, be the low-income eligible pupil count as of July 1 of the immediately preceding fiscal year (as determined by the Department of Human Services based on the number of pupils who are eligible for at least one of the following low income programs: Medicaid, KidCare, TANF, or Food Stamps, excluding pupils who are eligible for services provided by the Department of Children and Family Services, averaged over the 2 immediately preceding fiscal years for fiscal year 2004 and over the 3 immediately preceding fiscal years for each fiscal year thereafter) divided by the Average Daily Attendance of the school district.

(2) Supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 1998-1999, 1999-2000, and 2000-2001 school years only:

(a) For any school district with a Low Income Concentration Level of at least 20% and less than 35%, the grant for any school year shall be \$800 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level of at least 35% and less than 50%, the grant for the 1998-1999 school year shall be \$1,100 multiplied by the low income eligible pupil count.

(c) For any school district with a Low Income Concentration Level of at least 50% and less than 60%, the grant for the 1998-99 school year shall be \$1,500 multiplied by the low income eligible pupil count.

(d) For any school district with a Low Income Concentration Level of 60% or more, the grant for the 1998-99 school year shall be \$1,900 multiplied by the low income eligible pupil count.

(e) For the 1999-2000 school year, the per pupil amount specified in subparagraphs (b), (c), and (d) immediately above shall be increased to \$1,243, \$1,600, and \$2,000, respectively.

(f) For the 2000-2001 school year, the per pupil amounts specified in subparagraphs (b), (c), and (d) immediately above shall be \$1,273, \$1,640, and \$2,050, respectively.

(2.5) Supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 2002-2003 school year:

(a) For any school district with a Low Income Concentration Level of less than 10%, the grant for each school year shall be \$355 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level of at least 10% and less than 20%, the grant for each school year shall be \$675 multiplied by the low income eligible pupil count.

(c) For any school district with a Low Income Concentration Level of at least 20% and less than 35%, the grant for each school year shall be \$1,330 multiplied by the low income eligible pupil count.

(d) For any school district with a Low Income Concentration Level of at least 35% and less than 50%, the grant for each school year shall be \$1,362 multiplied by the low income eligible pupil count.

(e) For any school district with a Low Income Concentration Level of at least 50% and less than 60%, the grant for each school year shall be \$1,680 multiplied by the low income eligible pupil count.

(f) For any school district with a Low Income Concentration Level of 60% or more, the grant for each school year shall be \$2,080 multiplied by the low income eligible pupil count.

(2.10) Except as otherwise provided, supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 2003-2004 school year and each school year thereafter:

(a) For any school district with a Low Income Concentration Level of 15% or less, the grant for each school year shall be \$355 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level greater than 15%, the grant for each school year shall be \$294.25 added to the product of \$2,700 and the square of the Low Income Concentration Level, all multiplied by the low income eligible pupil count.

For the 2003-2004 school year and each school year thereafter through the 2008-2009 school year only, the grant shall be no less than the grant for the 2002-2003 school year. For the 2009-2010 school year only, the grant shall be no less than the grant for the 2002-2003 school year multiplied by 0.66. For the 2010-2011 school year only, the grant shall be no less than the grant for the 2002-2003 school year multiplied by 0.33. Notwithstanding the provisions of this paragraph to the contrary, if for any school year supplemental general State aid grants are prorated as provided in paragraph (1) of this subsection (H), then the grants under this paragraph shall be prorated.

For the 2003-2004 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.25 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year. For the 2004-2005 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.50 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year. For the 2005-2006 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.75 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year.

(3) School districts with an Average Daily Attendance of more than 1,000 and less than 50,000 that qualify for supplemental general State aid pursuant to this subsection shall submit a plan to the State Board of Education prior to October 30 of each year for the use of the funds resulting from this grant of supplemental general State aid for the improvement of instruction in which priority is given to meeting the education needs of disadvantaged children. Such plan shall be submitted in accordance with rules and regulations promulgated by the State Board of Education.

(4) School districts with an Average Daily Attendance of 50,000 or more that qualify for supplemental general State aid pursuant to this subsection shall be required to distribute from funds available pursuant to this Section, no less than \$261,000,000 in accordance with the following requirements:

(a) The required amounts shall be distributed to the attendance centers within the district in proportion to the number of pupils enrolled at each attendance center who are eligible to receive free or reduced-price lunches or breakfasts under the federal Child Nutrition Act of 1966 and under the National School Lunch Act during the immediately preceding school year.

(b) The distribution of these portions of supplemental and general State aid among attendance centers according to these requirements shall not be compensated for or contravened by adjustments of the total of other funds appropriated to any attendance centers, and the Board of

Education shall utilize funding from one or several sources in order to fully implement this provision annually prior to the opening of school.

(c) Each attendance center shall be provided by the school district a distribution of noncategorical funds and other categorical funds to which an attendance center is entitled under law in order that the general State aid and supplemental general State aid provided by application of this subsection supplements rather than supplants the noncategorical funds and other categorical funds provided by the school district to the attendance centers.

(d) Any funds made available under this subsection that by reason of the provisions of this subsection are not required to be allocated and provided to attendance centers may be used and appropriated by the board of the district for any lawful school purpose.

(e) Funds received by an attendance center pursuant to this subsection shall be used by the attendance center at the discretion of the principal and local school council for programs to improve educational opportunities at qualifying schools through the following programs and services: early childhood education, reduced class size or improved adult to student classroom ratio, enrichment programs, remedial assistance, attendance improvement, and other educationally beneficial expenditures which supplement the regular and basic programs as determined by the State Board of Education. Funds provided shall not be expended for any political or lobbying purposes as defined by board rule.

(f) Each district subject to the provisions of this subdivision (H)(4) shall submit an acceptable plan to meet the educational needs of disadvantaged children, in compliance with the requirements of this paragraph, to the State Board of Education prior to July 15 of each year. This plan shall be consistent with the decisions of local school councils concerning the school expenditure plans developed in accordance with part 4 of Section 34-2.3. The State Board shall approve or reject the plan within 60 days after its submission. If the plan is rejected, the district shall give written notice of intent to modify the plan within 15 days of the notification of rejection and then submit a modified plan within 30 days after the date of the written notice of intent to modify. Districts may amend approved plans pursuant to rules promulgated by the State Board of Education.

Upon notification by the State Board of Education that the district has not submitted a plan prior to July 15 or a modified plan within the time period specified herein, the State aid funds affected by that plan or modified plan shall be withheld by the State Board of Education until a plan or modified plan is submitted.

If the district fails to distribute State aid to attendance centers in accordance with an approved plan, the plan for the following year shall allocate funds, in addition to the funds otherwise required by this subsection, to those attendance centers which were underfunded during the previous year in amounts equal to such underfunding.

For purposes of determining compliance with this subsection in relation to the requirements of attendance center funding, each district subject to the provisions of this subsection shall submit as a separate document by December 1 of each year a report of expenditure data for the prior year in addition to any modification of its current plan. If it is determined that there has been a failure to comply with the expenditure provisions of this subsection regarding contravention or supplanting, the State Superintendent of Education shall, within 60 days of receipt of the report, notify the district and any affected local school council. The district shall within 45 days of receipt of that notification inform the State Superintendent of Education of the remedial or corrective action to be taken, whether by amendment of the current plan, if feasible, or by adjustment in the plan for the following year. Failure to provide the expenditure report or the notification of remedial or corrective action in a timely manner shall result in a withholding of the affected funds.

The State Board of Education shall promulgate rules and regulations to implement the provisions of this subsection. No funds shall be released under this subdivision (H)(4) to any district that has not submitted a plan that has been approved by the State Board of Education.

(I) (Blank).

(J) Supplementary Grants in Aid.

(1) Notwithstanding any other provisions of this Section, the amount of the aggregate general State aid in combination with supplemental general State aid under this Section for which each school district is eligible shall be no less than the amount of the aggregate general State aid entitlement that was received by the district under Section 18-8 (exclusive of amounts received under subsections 5(p) and 5(p-5) of that Section) for the 1997-98 school year, pursuant to the provisions of that Section as it was then in

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effect. If a school district qualifies to receive a supplementary payment made under this subsection (J), the amount of the aggregate general State aid in combination with supplemental general State aid under this Section which that district is eligible to receive for each school year shall be no less than the amount of the aggregate general State aid entitlement that was received by the district under Section 18-8 (exclusive of amounts received under subsections 5(p) and 5(p-5) of that Section) for the 1997-1998 school year, pursuant to the provisions of that Section as it was then in effect.

(2) If, as provided in paragraph (1) of this subsection (J), a school district is to receive aggregate general State aid in combination with supplemental general State aid under this Section for the 1998-99 school year and any subsequent school year that in any such school year is less than the amount of the aggregate general State aid entitlement that the district received for the 1997-98 school year, the school district shall also receive, from a separate appropriation made for purposes of this subsection (J), a supplementary payment that is equal to the amount of the difference in the aggregate State aid figures as described in paragraph (1).

(3) (Blank).

(K) Grants to Laboratory and Alternative Schools.

In calculating the amount to be paid to the governing board of a public university that operates a laboratory school under this Section or to any alternative school that is operated by a regional superintendent of schools, the State Board of Education shall require by rule such reporting requirements as it deems necessary.

As used in this Section, "laboratory school" means a public school which is created and operated by a public university and approved by the State Board of Education. The governing board of a public university which receives funds from the State Board under this subsection (K) may not increase the number of students enrolled in its laboratory school from a single district, if that district is already sending 50 or more students, except under a mutual agreement between the school board of a student's district of residence and the university which operates the laboratory school. A laboratory school may not have more than 1,000 students, excluding students with disabilities in a special education program.

As used in this Section, "alternative school" means a public school which is created and operated by a Regional Superintendent of Schools and approved by the State Board of Education. Such alternative schools may offer courses of instruction for which credit is given in regular school programs, courses to prepare students for the high school equivalency testing program or vocational and occupational training. A regional superintendent of schools may contract with a school district or a public community college district to operate an alternative school. An alternative school serving more than one educational service region may be established by the regional superintendents of schools of the affected educational service regions. An alternative school serving more than one educational service region may be operated under such terms as the regional superintendents of schools of those educational service regions may agree.

Each laboratory and alternative school shall file, on forms provided by the State Superintendent of Education, an annual State aid claim which states the Average Daily Attendance of the school's students by month. The best 3 months' Average Daily Attendance shall be computed for each school. The general State aid entitlement shall be computed by multiplying the applicable Average Daily Attendance by the Foundation Level as determined under this Section.

(L) Payments, Additional Grants in Aid and Other Requirements.

(1) For a school district operating under the financial supervision of an Authority created under Article 34A, the general State aid otherwise payable to that district under this Section, but not the supplemental general State aid, shall be reduced by an amount equal to the budget for the operations of the Authority as certified by the Authority to the State Board of Education, and an amount equal to such reduction shall be paid to the Authority created for such district for its operating expenses in the manner provided in Section 18-11. The remainder of general State school aid for any such district shall be paid in accordance with Article 34A when that Article provides for a disposition other than that provided by this Article.

(2) (Blank).

(3) Summer school. Summer school payments shall be made as provided in Section 18-4.3.

(M) Education Funding Advisory Board.

The Education Funding Advisory Board, hereinafter in this subsection (M) referred to as the "Board", is hereby created. The Board shall consist of 5 members who are appointed by the Governor, by and with the advice and consent of the Senate. The members appointed shall include representatives of education, business, and the general public. One of the members so appointed shall be designated by the Governor

at the time the appointment is made as the chairperson of the Board. The initial members of the Board may be appointed any time after the effective date of this amendatory Act of 1997. The regular term of each member of the Board shall be for 4 years from the third Monday of January of the year in which the term of the member's appointment is to commence, except that of the 5 initial members appointed to serve on the Board, the member who is appointed as the chairperson shall serve for a term that commences on the date of his or her appointment and expires on the third Monday of January, 2002, and the remaining 4 members, by lots drawn at the first meeting of the Board that is held after all 5 members are appointed, shall determine 2 of their number to serve for terms that commence on the date of their respective appointments and expire on the third Monday of January, 2001, and 2 of their number to serve for terms that commence on the date of their respective appointments and expire on the third Monday of January, 2000. All members appointed to serve on the Board shall serve until their respective successors are appointed and confirmed. Vacancies shall be filled in the same manner as original appointments. If a vacancy in membership occurs at a time when the Senate is not in session, the Governor shall make a temporary appointment until the next meeting of the Senate, when he or she shall appoint, by and with the advice and consent of the Senate, a person to fill that membership for the unexpired term. If the Senate is not in session when the initial appointments are made, those appointments shall be made as in the case of vacancies.

The Education Funding Advisory Board shall be deemed established, and the initial members appointed by the Governor to serve as members of the Board shall take office, on the date that the Governor makes his or her appointment of the fifth initial member of the Board, whether those initial members are then serving pursuant to appointment and confirmation or pursuant to temporary appointments that are made by the Governor as in the case of vacancies.

The State Board of Education shall provide such staff assistance to the Education Funding Advisory Board as is reasonably required for the proper performance by the Board of its responsibilities.

For school years after the 2000-2001 school year, the Education Funding Advisory Board, in consultation with the State Board of Education, shall make recommendations as provided in this subsection (M) to the General Assembly for the foundation level under ~~subsection (B) subdivision (B)(3)~~ of this Section and for the supplemental general State aid grant level under subsection (H) of this Section for districts with high concentrations of children from poverty. The recommended foundation level shall be determined based on a methodology which incorporates the basic education expenditures of low-spending schools exhibiting high academic performance. The Education Funding Advisory Board shall make such recommendations to the General Assembly on January 1 of odd numbered years, beginning January 1, 2001.

(N) (Blank).

(O) References.

(1) References in other laws to the various subdivisions of Section 18-8 as that Section existed before its repeal and replacement by this Section 18-8.05 shall be deemed to refer to the corresponding provisions of this Section 18-8.05, to the extent that those references remain applicable.

(2) References in other laws to State Chapter 1 funds shall be deemed to refer to the supplemental general State aid provided under subsection (H) of this Section.

(P) Public Act 93-838 and Public Act 93-808 make inconsistent changes to this Section. Under Section 6 of the Statute on Statutes there is an irreconcilable conflict between Public Act 93-808 and Public Act 93-838. Public Act 93-838, being the last acted upon, is controlling. The text of Public Act 93-838 is the law regardless of the text of Public Act 93-808.

(Source: P.A. 94-69, eff. 7-1-05; 94-438, eff. 8-4-05; 94-835, eff. 6-6-06; 94-1019, eff. 7-10-06; 94-1105, eff. 6-1-07; 95-331, eff. 8-21-07; 95-644, eff. 10-12-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; 95-903, eff. 8-25-08; revised 9-5-08.)

(105 ILCS 5/19-3) (from Ch. 122, par. 19-3)

Sec. 19-3. Boards of education. Any school district governed by a board of education and having a population of not more than 500,000 inhabitants, and not governed by a special Act may borrow money for the purpose of building, equipping, altering or repairing school buildings or purchasing or improving school sites, or acquiring and equipping playgrounds, recreation grounds, athletic fields, and other buildings or land used or useful for school purposes or for the purpose of purchasing a site, with or without a building or buildings thereon, or for the building of a house or houses on such site, or for the building of a house or houses on the school site of the school district, for residential purposes of the superintendent, principal, or teachers of the school district, and issue its negotiable coupon bonds

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therefor signed by the president and secretary of the board, in denominations of not less than \$100 nor more than \$5,000, payable at such place and at such time or times, not exceeding 20 years from date of issuance, as the board of education may prescribe, and bearing interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, payable annually, semiannually or quarterly, but, with the exception of those bonds described in Section 17-2.1c of this Code, no such bonds shall be issued unless the proposition to issue them is submitted to the voters of the district at a referendum held at a regularly scheduled election after the board has certified the proposition to the proper election authorities in accordance with the general election law, a majority of all the votes cast on the proposition is in favor of the proposition, and notice of such bond referendum has been given either (i) in accordance with the second paragraph of Section 12-1 of the Election Code irrespective of whether such notice included any reference to the public question as it appeared on the ballot, or (ii) for an election held on or after November 1, 1998, in accordance with Section 12-5 of the Election Code, or (iii) by publication of a true and legible copy of the specimen ballot label containing the proposition in the form in which it appeared or will appear on the official ballot label on the day of the election at least 5 days before the day of the election in at least one newspaper published in and having a general circulation in the district, irrespective of any other requirements of Article 12 or Section 24A-18 of the Election Code, nor shall any residential site be acquired unless such proposition to acquire a site is submitted to the voters of the district at a referendum held at a regularly scheduled election after the board has certified the proposition to the proper election authorities in accordance with the general election law and a majority of all the votes cast on the proposition is in favor of the proposition. Nothing in this Act or in any other law shall be construed to require the notice of the bond referendum to be published over the name or title of the election authority or the listing of maturity dates of any bonds either in the notice of bond election or ballot used in the bond election. The provisions of this Section concerning notice of the bond referendum apply only to (i) consolidated primary elections held prior to January 1, 2002 and the consolidated election held on April 17, 2007 at which not less than 60% of the voters voting on the bond proposition voted in favor of the bond proposition, and (ii) other elections held before July 1, 1999; otherwise, notices required in connection with the submission of public questions shall be as set forth in Section 12-5 of the Election Code. Such proposition may be initiated by resolution of the school board.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

The proceeds of any bonds issued under authority of this Section shall be deposited and accounted for separately within the Site and Construction/Capital Improvements Fund.

(Source: P.A. 95-30, eff. 8-7-07.)

(105 ILCS 5/21-29)

Sec. 21-29. Salary Incentive Program for Hard-to-Staff Schools.

(a) The Salary Incentive Program for Hard-to-Staff Schools is established to provide categorical funding for monetary incentives and bonuses for teachers and school administrators who are employed by school districts in schools designated as hard-to-staff by the State Board of Education.

For the purposes of this Section, "hard-to-staff school" means a public school in this State that ranks in the upper third among public schools of its type (elementary, middle, or secondary) in terms of rate of attrition of its teachers and where 40% of its students are at or below the poverty line ~~an elementary, middle, or high school that is operated by a school district and that ranks in the top 5% of schools in this State in the average rate of teacher attrition over a 5-year period.~~ The State Board of Education shall allocate and distribute to qualifying schools an amount as annually appropriated by the General Assembly for the Salary Incentive Program for Hard-to-Staff Schools. The State Board of Education's annual budget must set out by separate line item the appropriation for the program. Only teachers and principals who work full time and for a full school year are eligible for the incentives and bonuses.

(b) Unless otherwise provided by appropriation, each school's annual allocation under the Salary Incentive Program for Hard-to-Staff Schools shall be the sum of the following incentives and bonuses:

(1) An annual payment of \$3,000 to be paid to each certificated teacher employed as a school teacher by the school district. The school shall distribute this payment to each eligible teacher

as a single payment or in not more than 3 payments.

(2) An annual payment of \$5,000 to each certificated principal that is employed as a school principal by the school district. The school shall distribute this payment to each eligible principal as a single payment or in not more than 3 payments.

If the appropriation in a given fiscal year is insufficient to meet all needs under this Section, then claims under this Section must be prorated proportionally.

(c) Each regional superintendent of schools shall provide information about the Salary Incentive Program for Hard-to-Staff Schools to each individual seeking to register or renew a certificate.

(d) The State Board of Education, the Teachers' Retirement System of the State of Illinois, and the Public School Teachers' Pension and Retirement Fund of Chicago shall work together to validate data for the purposes of this Section as necessary.

(Source: P.A. 95-707, eff. 1-11-08; 95-938, eff. 8-29-08.)

(105 ILCS 5/21A-3 new)

Sec. 21A-3. Goals. The New Teacher Induction and Mentoring Program under this Article shall accomplish the following goals:

(1) provide an effective transition into the teaching career for first year and second-year teachers in Illinois;

(2) improve the educational performance of pupils through improved training, information, and assistance for new teachers;

(3) ensure professional success and retention of new teachers;

(4) ensure that mentors provide intensive individualized support and assistance to each participating beginning teacher;

(5) ensure that an individual induction plan is in place for each beginning teacher and is based on an ongoing assessment of the development of the beginning teacher; and

(6) ensure continuous program improvement through ongoing research, development and evaluation.

(105 ILCS 5/21A-5)

Sec. 21A-5. Definitions. In this Article:

"New teacher" or "beginning teacher" means the holder of an Initial Teaching Certificate, as set forth in Section 21-2 of this Code, an Alternative Teaching Certificate, or a Transitional Bilingual Teaching Certificate, who is employed by a public school and who has not previously participated in a new teacher induction and mentoring program required by this Article, except as provided in Section 21A-25 of this Code.

"Public school" means any school operating pursuant to the authority of this Code, including without limitation a school district, a charter school, a cooperative or joint agreement with a governing body or board of control, and a school operated by a regional office of education or State agency.

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/21A-10)

Sec. 21A-10. Development of program required. ~~Prior to the 2011-2012~~ ~~During the 2003-2004~~ school year, each public school or 2 or more public schools acting jointly shall develop, in conjunction with its exclusive representative or their exclusive representatives, if any, a new teacher induction and mentoring program that meets the requirements set forth in Section 21A-20 of this Code to assist new teachers in developing the skills and strategies necessary for instructional excellence, ~~provided that funding is made available by the State Board of Education from an appropriation made for this purpose. A public school that has an existing induction and mentoring program that does not meet the requirements set forth in Section 21A-20 of this Code may have school years 2003-2004 and 2004-2005 to develop a program that does meet those requirements and may receive funding as described in Section 21A-25 of this Code, provided that the funding is made available by the State Board of Education from an appropriation made for this purpose. A public school with such an existing induction and mentoring program may receive funding for the 2005-2006 school year for each new teacher in the second year of a 2-year program that does not meet the requirements set forth in Section 21A-20, as long as the public school has established the required new program by the beginning of that school year as described in Section 21A-15 and provided that funding is made available by the State Board of Education from an appropriation made for this purpose as described in Section 21A-25.~~

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/21A-15)

Sec. 21A-15. When program is to be established and implemented. Notwithstanding any other provisions of this Code, by the beginning of the ~~2011-2012~~ ~~2004-2005~~ school year ~~(or by the beginning~~

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~~of the 2005-2006 school year for a public school that has been given an extension of time to develop a program under Section 21A-10 of this Code), each public school or 2 or more public schools acting jointly shall establish and implement, in conjunction with its exclusive representative or their exclusive representatives, if any, the new teacher induction and mentoring program required to be developed under Section 21A-10 of this Code, provided that funding is made available by the State Board of Education, from an appropriation made for this purpose, as described in Section 21A-25 of this Code. A public school may contract with an institution of higher education or other independent party to assist in implementing the program.~~

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/21A-20)

Sec. 21A-20. Program requirements. Each new teacher induction and mentoring program must be based on a plan that at least does all of the following:

(1) Assigns a mentor teacher to each new teacher to provide structured and intensive mentoring, as defined by the State Board of Education, for a period of at least 2 school years.

(1.5) Ensures mentors are:

(A) carefully selected from experienced, exemplary teachers using a clearly articulated, well-defined, explicit criteria and open processes that may involve key school partners;

(B) rigorously trained using best practices in the field to ensure they are well prepared to assume their responsibilities and are consistently supported in their efforts to assist beginning teachers;

(C) provided with sufficient release time from teaching to allow them to meet their responsibilities as mentors, including regular contacts with their beginning teachers and frequent observations of their teaching practice; and

(D) equipped and selected to provide classroom-focused and content-focused support whenever possible.

(2) Aligns with the Illinois Professional Teaching Standards, content area standards, and applicable local school improvement and professional development plans, if any.

(3) ~~(Blank). Addresses all of the following elements and how they will be provided:~~

~~(A) Mentoring and support of the new teacher.~~

~~(B) Professional development specifically designed to ensure the growth of the new teacher's knowledge and skills.~~

~~(C) Formative assessment designed to ensure feedback and reflection, which must not be used in any evaluation of the new teacher.~~

(4) Describes the role of mentor teachers, the criteria and process for their

selection, and how they will be trained, provided that each mentor teacher shall demonstrate the best practices in teaching his or her respective field of practice. A mentor teacher may not directly or indirectly participate in the evaluation of a new teacher pursuant to Article 24A of this Code or the evaluation procedure of the public school, unless the school district and exclusive bargaining representative of its teachers negotiate and agree to it as part of an alternative evaluation plan under Section 24A-5 or 24A-8 of this Code.

(5) Provides ongoing professional development for both beginning teachers and mentors.

(A) Beginning teachers shall participate in an ongoing, formal network of novice colleagues for the purpose of professional learning, problem-solving, and mutual support. These regular learning opportunities shall begin with an orientation to the induction and mentoring program prior to the start of the school year and continue throughout the academic year. The group shall address issues of pedagogy, classroom management and content knowledge, beginning teachers' assessed needs, and local instructional needs or priorities.

(B) Mentors shall participate in an ongoing professional learning community that supports their practice and their use of mentoring tools, protocols, and formative assessment in order to tailor and deepen mentoring skills and advance induction practices, support program implementation, provide for mentor accountability in a supportive environment, and provide support to each mentor's emerging leadership.

(6) Provides for ongoing assessment of beginning teacher practice. Beginning teachers shall be subject to a system of formative assessment in which the novice and mentor collaboratively collect and analyze multiple sources of data and reflect upon classroom practice in an ongoing process. This assessment system shall be based on the Illinois Professional Teaching Standards (IPTS), the IPTS Continuum of Teacher Development, or a nationally recognized teaching framework, as well as evidence of teacher practice, including student work. The assessment information shall be used to determine the scope, focus, and content of professional development activities that are the basis of the beginning

teacher's individual learning plan. The program shall provide time to ensure that the quality of the process (such as observations, data collection, and reflective conversations) is not compromised.

(7) Identifies clear roles and responsibilities for both administrators and site mentor leaders who are to work collectively to ensure induction practices are integrated into existing professional development initiatives and to secure assignments and establish working conditions for beginning teachers that maximize their chances for success. Administrators and site mentor leaders must have sufficient knowledge and experience to understand the needs of beginning teachers and the role of principals in supporting each component of the program. Site administrators must take time to meet and communicate concerns with beginning teachers and their mentors.

(8) Provides for ongoing evaluation of the New Teacher Induction and Mentoring Program pursuant to Section 21A-30 of this Code.

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/21A-25)

Sec. 21A-25. Funding. From a separate appropriation made for the purposes of this Article, for each new teacher ~~participating in a new teacher induction and mentoring program that meets the requirements set forth in Section 21A-20 of this Code or in an existing program that is in the process of transition to a program that meets those requirements,~~ the State Board of Education shall pay the public school ~~\$6,000 \$1,200~~ annually for each of 2 school years for the purpose of providing one or more of the following:

(1) Mentor teacher compensation.

(2) Mentor teacher training and other resources, ~~or~~ new teacher training and other resources, or both.

(3) Release time, including costs associated with replacing a mentor teacher or new teacher in his or her regular classroom.

(4) Site-based program administration, not to exceed 10% of the total program cost.

However, if a new teacher, after participating in the new teacher induction and mentoring program for one school year, becomes employed by another public school, the State Board of Education shall pay the teacher's new school ~~\$6,000 \$1,200~~ for the second school year and the teacher shall continue to be a new teacher as defined in this Article. Each public school shall determine, in conjunction with its exclusive representative, if any, how the ~~\$6,000 \$1,200~~ per school year for each new teacher shall be used, provided that if a mentor teacher receives additional release time to support a new teacher, the total workload of other teachers regularly employed by the public school shall not increase in any substantial manner. If the appropriation is insufficient to cover the ~~\$6,000 \$1,200~~ per school year for each new teacher, public schools are not required to develop or implement the program established by this Article. In the event of an insufficient appropriation, a public school or 2 or more schools acting jointly may submit an application for a grant administered by the State Board of Education and awarded on a competitive basis to establish a new teacher induction and mentoring program that meets the criteria set forth in Section 21A-20 of this Code. The State Board of Education may retain up to \$1,000,000 of the appropriation for new teacher induction and mentoring programs to train mentor teachers, administrators, and other personnel, to provide best practices information, and to conduct an evaluation of these programs' impact and effectiveness.

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/21A-30)

Sec. 21A-30. Evaluation of programs. The State Board of Education and the State Teacher Certification Board shall jointly contract with an independent party to conduct a comprehensive evaluation of new teacher induction and mentoring programs established pursuant to this Article. The first report of this evaluation shall be presented to the General Assembly on or before January 1, ~~2013 2009~~. Subsequent evaluations shall be conducted and reports presented to the General Assembly on or before January 1 of every third year thereafter. Additionally, the State Board of Education shall prepare an annual program report for the General Assembly on or before December 31 each year. It shall summarize local program design, indicate the number of teachers served, and document rates of new teacher attrition and retention.

(Source: P.A. 93-355, eff. 1-1-04.)

(105 ILCS 5/23-3) (from Ch. 122, par. 23-3)

Sec. 23-3. Filing copy of constitution, by-laws and amendments. Within 30 days after the adoption by any such association of its constitution or by-laws or any amendment thereto, it shall file a copy thereof, certified by its president and executive director, with the Governor, the State Superintendent of Education, Public Instruction and the regional ~~county~~ superintendent of schools of each region ~~county~~ in which it has any membership.

(Source: Laws 1961, p. 31.)

(105 ILCS 5/23-5.5 new)

Sec. 23-5.5. Professional development and training. Any such association shall offer professional development and training to school board members on topics that include, but are not limited to, basics of school finance, financial oversight and accountability, labor law and collective bargaining, ethics, duties and responsibilities of a school board member, and board governance principles. Every school board member is expected to receive at least 4 hours of professional development and training per year.

(105 ILCS 5/23-6) (from Ch. 122, par. 23-6)

Sec. 23-6. Annual report. Each association shall make an annual report within 60 days after the close of its fiscal year to the Governor, the State Board of Education and the regional superintendent of schools of each region in which it has members, setting forth the activities of the association for the preceding fiscal year, the institutes held, the subjects discussed, and the attendance, and shall furnish the Governor, the State Board of Education and such regional superintendents with copies of all publications sent to its members. The association shall include the board training topics offered and the number of school board members that availed themselves of professional development and training.

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

(105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

Sec. 24-12. Removal or dismissal of teachers in contractual continued service.

(a) If a teacher in contractual continued service is removed or dismissed as a result of a decision of the board to decrease the number of teachers employed by the board or to discontinue some particular type of teaching service, written notice shall be mailed to the teacher and also given the teacher either by certified mail, return receipt requested or personal delivery with receipt at least 60 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor. Any teacher dismissed as a result of such decrease or discontinuance shall be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5 or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the board shall also hold a public hearing on the question of the dismissals. Following the hearing and board review, the action to approve any such reduction shall require a majority vote of the board members.

(1) Each board shall, in consultation with any exclusive employee representatives, each year establish a list, categorized by positions, showing the length of continuing service of each teacher who is qualified to hold any such certified positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year.

In all such cases where a teacher in contractual continued service is removed or dismissed as a result of a decision of the board to decrease the number of teachers employed by the board or to discontinue some particular type of teaching service, and in all such cases the board shall first remove or dismiss all teachers who have not entered upon

contractual continued service before removing or dismissing any teacher who has entered upon contractual continued service and who is legally qualified to hold a position currently held by a teacher who has not entered upon contractual continued service.

As between teachers who have entered upon contractual continued service, the teacher or teachers with the shorter length of continuing service with the district shall be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization and except that this provision shall not impair the operation of any affirmative action program in the district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board. Any teacher dismissed as a result of such decrease or discontinuance shall be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

(2) If the board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available shall be tendered to the teachers so removed or dismissed so far as they are legally qualified to hold such positions; provided, however, that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then if the board has any vacancies for the following school term or within 2 calendar years from the beginning of the following school term, the positions so becoming available shall be tendered to the teachers who were

so notified and removed or dismissed whenever they are legally qualified to hold such positions. ~~Each board shall, in consultation with any exclusive employee representatives, each year establish a list, categorized by positions, showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5, or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the board also shall hold a public hearing on the question of the dismissals. Following the hearing and board review the action to approve any such reduction shall require a majority vote of the board members.~~

(b)(1) If a dismissal or removal is sought for any other reason or cause, including those under Section 10-22.4, the board must first approve a motion containing specific charges by a majority vote of all its members. Written notice of such charges and the teacher's right to request a hearing shall be mailed to the teacher and also given the teacher either by certified mail, return receipt requested, or personal delivery with receipt shall be served upon the teacher within 5 days of the adoption of the motion. Such notice shall contain a bill of particulars.

Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code.

If in the opinion of the board the interests of the school require it, the board may suspend the teacher pending the hearing, but the teacher shall not suffer the loss of any salary or benefits by reason of the suspension.

(2) No hearing upon the charges is required unless the teacher within 10 days after receiving notice requests in writing of the board that a hearing be scheduled, in which case the board shall schedule a hearing on those charges before a disinterested hearing officer on a date no less than 15 nor more than 30 days after the enactment of the motion. The secretary of the school board shall forward a copy of the notice to the State Board of Education.

(3) Within 5 business days after receiving this notice of hearing, the State Board of Education shall provide a list of 5 prospective, impartial hearing officers. Each person on the list must (i) be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between educational employers and educational employees or their exclusive bargaining representatives; (ii) ~~not~~ not ~~be a resident of the school district~~ beginning July 1, 2010, have participated within the past 2 years in training provided or approved by the State Board of Education for teacher dismissal hearing officers so that he or she is familiar with issues generally involved in evaluative and non-evaluative dismissals; (iv) be available to commence the hearing within 90 days and conclude the hearing within 120 days after being selected by the parties as the hearing officer; and (v) issue a decision as to whether the teacher shall be dismissed and give a copy of that decision to both the teacher and the school board within 60 days from the conclusion of the hearing or closure of the record, whichever is later. The Board and the teacher or their legal representatives within 5 business ~~3~~ days shall alternately strike one name from the list until only one name remains. Unless waived by the teacher, the teacher shall have the right to proceed first with the striking. Within 5 business ~~3~~ days of receipt of the first list provided by the State Board of Education, the board and the teacher or their legal representatives shall each have the right to reject all prospective hearing officers named on the first list and to require the State Board of Education to provide a second list of 5 prospective, impartial hearing officers, none of whom were named on the first list. Within 5 business days after receiving this request for a second list, the State Board of Education shall provide the second list of 5 prospective, impartial hearing officers. The procedure for selecting a hearing officer from the second list shall be the same as the procedure for the first list.

(4) In the alternative to selecting a hearing officer from the first or second list received from the State Board of Education or if the State Board of Education cannot provide a list that meets the foregoing requirements, the board and the teacher or their legal representatives may mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education either by direct appointment by the parties or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of Education of their intent to select a hearing officer using an alternative procedure within 3 business days of receipt of a list of prospective

hearing officers provided by the State Board of Education or receipt of notice from the State Board of Education that it cannot provide a list that meets the foregoing requirements. Any person selected by the parties under this alternative procedure for the selection of a hearing officer must meet the requirements for a hearing officer to appear on ~~shall not be a resident of the school district and shall have the same qualifications and authority as a hearing officer selected from a list provided by the State Board of Education.~~

(5) The State Board of Education shall promulgate uniform standards and rules of procedure for such hearings. As to prehearing discovery, such rules and regulations shall, at a minimum, allow for written interrogatories, evidence depositions and requests for production of documents. They shall also require each party to provide to the other party, by no later than 45 days prior to the commencement of the hearing: (i) ~~the (1) discovery of names and addresses of persons who may be called as expert witnesses at the hearing, with an indication of which of up to 3 witnesses may be providing the most essential testimony and a detailed summary of the facts or opinion each witness will testify to the omission of any such name to result in a preclusion of the testimony of such witness in the absence of a showing of good cause and the express permission of the hearing officer;~~ (2) ~~bills of particulars;~~ (3) written interrogatories; and (ii) ~~all other (4) production of relevant documents and other materials, including information maintained electronically, whether or not the party intends to use them at the hearing. Subsequently, if a party discovers additional materials or information that should be provided, he or she shall promptly notify and provide the additional materials to the other party or his or her counsel. If such additional material or information is discovered during the hearing, the hearing officer shall also be notified. If at any time during the course of the hearing it is brought to the attention of the hearing officer that a party has failed to provide information as required by this Section, the hearing officer may order such party to provide the material and information, grant a continuance, exclude such evidence, or enter such other order as it deems just under the circumstances.~~ The per diem allowance for the hearing officer shall be determined and paid by the State Board of Education, provided that the per diem allowance shall be no less than the average per diem rate for Illinois arbitrators reported by the Federal Mediation and Conciliation Service for the prior calendar year. If the board and the teacher or their legal representatives mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education, they may agree to supplement the per diem allowance paid by the State Board to the hearing officer, at a rate consistent with the hearing officer's published professional fees.

The hearing officer shall hold a hearing and render a final decision. The hearing officer shall commence the hearing within 90 days and conclude the hearing within 120 days after being selected by the parties as the hearing officer, provided that these timelines may be modified upon the showing of good cause. Good cause shall mean the illness or otherwise unavoidable emergency of the teacher, district superintendent, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission. In a dismissal hearing, the hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A of this Code. The teacher has

the privilege of being present at the hearing with counsel and of cross-examining witnesses and may offer evidence and witnesses and present defenses to the charges. The hearing officer may issue subpoenas and subpoenas duces tecum requiring the attendance of witnesses and, at the request of the teacher against whom a charge is made or the board, shall issue such subpoenas, but the hearing officer may limit the number of witnesses to be subpoenaed in behalf of the teacher or the board to not more than 10. All testimony at the hearing shall be taken under oath administered by the hearing officer. The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or steno-type notes of all the testimony. The costs of the reporter's attendance and services at the hearing shall be paid by the State Board of Education. Either party desiring a transcript of the hearing shall pay for the cost thereof. ~~If in the opinion of the board the interests of the school require it, the board may suspend the teacher pending the hearing, but if acquitted the teacher shall not suffer the loss of any salary by reason of the suspension.~~

~~Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes which, if not removed, may result in charges; however, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to Article 24A.~~

(6) The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A. The hearing officer shall, within 30 days from the conclusion of the hearing or closure of the record, whichever is later, make a decision as to whether or not the teacher shall be dismissed and shall give a copy of the decision to both the teacher and the school board. ~~If the hearing officer fails to render a decision within 30 days, the State Board of Education shall~~

~~communicate with the hearing officer to determine the date that the parties can reasonably expect to receive the decision. The State Board of Education shall provide copies of all such communications to the parties. In the event the hearing officer fails without good cause to make a decision within the 30 day period, the name of such hearing officer shall be struck for a period of not more than 24 months from the master list of hearing officers maintained by the State Board of Education. If a hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision within 60 days 3 months after the hearing is concluded or the record is closed, whichever is later, the State Board of Education shall provide the parties with a new list of prospective, impartial hearing officers, with the same qualifications provided herein, one of whom shall be selected, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision or to review the record and render a decision. Good cause shall mean the illness or otherwise unavoidable emergency of the hearing officer. The parties may mutually agree to select a hearing officer pursuant to the alternative procedure, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision or to review the record and render a decision. If any the hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision within 60 days 3 months after the hearing is concluded or the record is closed, whichever is later, the hearing officer shall be removed from the master list of hearing officers maintained by the State Board of Education for not more than 24 months. The State Board of Education may also take such other actions as it deems appropriate, including recovering, reducing, or withholding any fees paid or to be paid to the hearing officer. If any hearing officer repeats such failure, he or she shall be permanently removed from the master list maintained by the State Board of Education and may not be selected by parties through the alternative selection process under this Section. The board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the time specified in this Section. If the decision of the hearing officer is in favor of the teacher, he or she shall order reinstatement to the same or a substantially equivalent position and shall determine the amount for which the board is liable, including, but not limited to, loss of income and benefits.~~

(7) The decision of the hearing officer is final unless reviewed as provided in Section 24-16 of this Act. In the event such review is instituted, any costs of preparing and filing the record of proceedings shall be paid by the board.

(8) If a decision of the hearing officer is adjudicated upon review or appeal in favor of the teacher, then the trial court shall order reinstatement and shall determine the amount for which the board is liable including but not limited to loss of income, benefits, and costs incurred therein. Any teacher who is reinstated by any hearing or adjudication brought under this Section shall be assigned by the board to a position substantially similar to the one which that teacher held prior to that teacher's suspension or dismissal.

If, by reason of any change in the boundaries of school districts, or by reason of the creation of a new school district, the position held by any teacher having a contractual continued service status is transferred from one board to the control of a new or different board, the contractual continued service status of such teacher is not thereby lost, and such new or different board is subject to this Act with respect to such teacher in the same manner as if such teacher were its employee and had been its employee during the time such teacher was actually employed by the board from whose control the position was transferred.

(Source: P.A. 89-618, eff. 8-9-96; 90-224, eff. 7-25-97.)

(105 ILCS 5/24A-3) (from Ch. 122, par. 24A-3)

Sec. 24A-3. Evaluation training. ~~School Beginning January 1, 1986, school~~ boards shall require those administrators and other school employees, or -- in school districts having a population exceeding 500,000 -- assistant principals, who evaluate other certified personnel to participate at least once every year 2 years in an inservice workshop of at least one day on ~~either school improvement or the evaluation of certified personnel provided or approved~~ by the State Board of Education.

(Source: P.A. 86-1477; 87-1076.)

(105 ILCS 5/24A-4) (from Ch. 122, par. 24A-4)

Sec. 24A-4. Development and submission of evaluation plan. As used in this and the succeeding Sections, "teacher" means any and all school district employees regularly required to be certified under laws relating to the certification of teachers. Each school district shall develop, in cooperation with its teachers or, where applicable, the exclusive bargaining representatives of its teachers, an evaluation plan for all teachers ~~in contractual continued service~~. The district shall, ~~no later than October 1, 1986,~~ submit a copy of its evaluation plan to the State Board of Education, which shall review the plan and make public its comments thereon, and the district shall at the same time provide a copy to the exclusive

bargaining representatives. Whenever any substantive change is made in a district's evaluation plan, the new plan shall be submitted to the State Board of Education for review and comment, and the district shall at the same time provide a copy of any such new plan to the exclusive bargaining ~~representative~~ representatives. Any substantive change in a district's evaluation plan must be developed by the district at least in cooperation with teachers or, where applicable, the exclusive bargaining representative of its teachers. The board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers shall submit a certified copy of an agreement entered into under Section 34-85c of this Code to the State Board of Education, and that agreement shall constitute the teacher evaluation plan for teachers assigned to schools identified in that agreement. Whenever any substantive change is made in an agreement entered into under Section 34-85c of this Code by the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers, the new agreement shall be submitted to the State Board of Education. (Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-5) (from Ch. 122, par. 24A-5)

Sec. 24A-5. Content of evaluation plans for teachers in contractual continued service. This Section does not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code. Each school district to which this Article applies shall establish a teacher evaluation plan which ensures that each teacher in contractual continued service is evaluated at least once in the course of every 2 school years, ~~beginning with the 1986-87 school year.~~

The evaluation plan shall comply with the requirements of this Section and of any rules adopted by the State Board of Education pursuant to this Section.

The plan shall include a description of each teacher's duties and responsibilities and of the standards to which that teacher is expected to conform. Beginning with the 2010-2011 school year, these standards shall include the Illinois Professional Teaching Standards, provided that in a district subject to a collective bargaining agreement as of the effective date of this amendatory Act of the 96th General Assembly, any changes made by this amendatory Act of the 96th General Assembly shall go into effect in that district only upon expiration of that agreement, unless otherwise agreed to by the district and the exclusive bargaining representative of its teachers.

The plan may provide for evaluation of personnel whose positions require administrative certification by independent evaluators not employed by or affiliated with the school district. The results of the school district administrators' evaluations shall be reported to the employing school board, together with such recommendations for remediation as the evaluator or evaluators may deem appropriate.

~~The evaluation~~ Evaluation of teachers whose positions do not require administrative certification shall be conducted by an administrator qualified under Section 24A-3, or -- in school districts having a population exceeding 500,000 -- by either an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3, provided that some or all the duties of administrators and assistant principals under this Section may be delegated to other school employees if the school district and exclusive bargaining representative of its teachers negotiate and agree to it as part of an alternative evaluation plan under this Section. The evaluation, ~~and~~ shall include at least the following components:

(a) personal observation of the teacher in the classroom ~~(on at least 2 different school days in school districts having a population exceeding 500,000)~~ by a district administrator qualified under Section 24A-3, or -- in school districts having a population exceeding 500,000 -- by either an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3, unless the teacher has no classroom duties. A written summary of the observation, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date of the observation, unless an applicable collective bargaining agreement provides to the contrary.

(b) consideration of the teacher's attendance, planning, and instructional methods, classroom management, where relevant, and competency in the subject matter taught, where relevant.

(c) rating of the teacher's performance as "excellent", "satisfactory" or "unsatisfactory".

(d) specification as to the teacher's strengths and weaknesses, with details of specific examples and supporting reasons for the comments made.

(e) ~~inclusion of a copy of the evaluation in the teacher's personnel file and~~ provision of a copy of

the evaluation to the teacher and inclusion of the copy and the teacher's response to it in the teacher's personnel file.

(f) within 30 school days after completion of an overall evaluation rating a teacher as "unsatisfactory", development and commencement by the district, or by an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3 in school districts having a population exceeding 500,000, in consultation with the teacher and the consulting teacher, of a remediation plan designed to correct deficiencies cited, provided the deficiencies are deemed remediable. In all school districts the remediation plan for unsatisfactory, tenured teachers shall provide for 90 school days of remediation within the classroom. In all school districts evaluations issued pursuant to this Section shall be issued within 10 days after the conclusion of the respective remediation plan. However, the school board or other governing authority of the district shall not lose jurisdiction to discharge a teacher in the event the evaluation is not issued within 10 days after the conclusion of the respective remediation plan.

(g) participation in the remediation plan by the teacher rated "unsatisfactory", a district administrator qualified under Section 24A-3 (or -- in a school district having a population exceeding 500,000 -- an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3), and a consulting teacher, selected by the participating administrator or by the principal, or -- in school districts having a population exceeding 500,000 -- by an administrator qualified under Section 24A-3 or by an assistant principal under the supervision of an administrator qualified under Section 24A-3, of the teacher who was rated "unsatisfactory", which consulting teacher is an educational employee as defined in the Educational Labor Relations Act, has at least 5 years' teaching experience and a reasonable familiarity with the assignment of the teacher being evaluated, and who received an "excellent" rating on his or her most recent evaluation. Where no teachers who meet these criteria are available within the district, the district shall request and the State Board of Education shall supply, to participate in the remediation process, an individual who meets these criteria.

In a district having a population of less than 500,000 with an exclusive bargaining agent, the bargaining agent may, if it so chooses, supply a roster of qualified teachers from whom the consulting teacher is to be selected. That roster shall, however, contain the names of at least 5 teachers, each of whom meets the criteria for consulting teacher with regard to the teacher being evaluated, or the names of all teachers so qualified if that number is less than 5. In the event of a dispute as to qualification, the State Board shall determine qualification.

(h) evaluations and ratings once every 30 school days for the 90 school day remediation period immediately following receipt of a remediation plan provided for under subsections (f) and (g) of this Section; provided that in school districts having a population exceeding 500,000 there shall be monthly evaluations and ratings for the first 6 months and quarterly evaluations and ratings for the next 6 months immediately following completion of the remediation program of a teacher for whom a remediation plan has been developed. Each evaluation shall assess the teacher's performance during the time period since the prior evaluation, provided that the last evaluation shall also include an overall evaluation of the teacher's performance during the remediation period. A written copy of the evaluations and ratings, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date of the evaluation, unless an applicable collective bargaining agreement provides to the contrary. These subsequent evaluations shall be conducted by the participating administrator, or -- in school districts having a population exceeding 500,000 -- by either the principal or by an assistant principal under the supervision of an administrator qualified under Section 24A-3. The consulting teacher shall provide advice to the teacher rated "unsatisfactory" on how to improve teaching skills and to successfully complete the remediation plan. The consulting teacher shall participate in developing the remediation plan, but the final decision as to the evaluation shall be done solely by the administrator, or -- in school districts having a population exceeding 500,000 -- by either the principal or by an assistant principal under the supervision of an administrator qualified under Section 24A-3, unless an applicable collective bargaining agreement provides to the contrary. Teachers in the remediation process in a school district having a population exceeding 500,000 are not subject to the annual evaluations described in paragraphs (a) through (e) of this Section. Evaluations at the conclusion of the remediation process shall be separate and distinct from the required annual evaluations of teachers and shall not be subject to the guidelines and procedures relating to those annual evaluations. The evaluator may but is not required to use the forms provided for the annual evaluation of teachers in the district's evaluation plan.

(i) in school districts having a population of less than 500,000, reinstatement to a

schedule of biennial evaluation for any teacher who completes the 90 school day remediation plan with a "satisfactory" or better rating, unless the district's plan regularly requires more frequent evaluations; and in school districts having a population exceeding 500,000, reinstatement to a schedule of biennial evaluation for any teacher who completes the 90 school day remediation plan with a "satisfactory" or better rating and the one year intensive review schedule as provided in paragraph (h) of this Section with a "satisfactory" or better rating, unless such district's plan regularly requires more frequent evaluations.

(j) dismissal in accordance with Section 24-12 or 34-85 of the School Code of any teacher who fails to complete any applicable remediation plan with a "satisfactory" or better rating. Districts and teachers subject to dismissal hearings are precluded from compelling the testimony of consulting teachers at such hearings under Section 24-12 or 34-85, either as to the rating process or for opinions of performances by teachers under remediation.

Notwithstanding paragraphs (a) through (i) of this Section, each school district and the exclusive bargaining representative of its teachers may negotiate and agree to an alternative evaluation plan for its teachers that does not include or modifies one or more of those components. The alternative plan may in part use growth model assessment, peer assistance, and peer review to evaluate teachers, provided that individual teacher data based upon student performance and progress shall be confidential and shall not be a public record.

~~In a district subject to a collective bargaining agreement as of the effective date of this amendatory Act of 1997, any changes made by this amendatory Act to the provisions of this Section that are contrary to the express terms and provisions of that agreement shall go into effect in that district only upon expiration of that agreement. Thereafter, collectively bargained evaluation plans shall at a minimum meet the standards of this Article. If such a district has an evaluation plan, however, whether pursuant to the collective bargaining agreement or otherwise, a copy of that plan shall be submitted to the State Board of Education for review and comment, in accordance with Section 24A-4.~~

Nothing in this Section shall be construed as preventing immediate dismissal of a teacher for deficiencies which are deemed irremediable or for actions which are injurious to or endanger the health or person of students in the classroom or school. Failure to strictly comply with the time requirements contained in Section 24A-5 shall not invalidate the results of the remediation plan.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-6) (from Ch. 122, par. 24A-6)

~~Sec. 24A-6. Alternative evaluations. The school board of any school district which has not evaluated all of its teachers by the end of the 1987-88 school year, or which fails to evaluate such teachers within every 2 school years thereafter, as provided for in this Article shall report the names and titles of such employees and the reasons for the failure to evaluate to the State Board of Education. In districts where a collectively bargained plan already exists, that plan shall be used to evaluate the teachers in that district, rather than using the evaluation plan developed by the State Board of Education unless the collectively bargained plan does not meet the requirements of this Article subsections (a) through (d) of Section 24A-5. In cases where an evaluation instrument is in dispute, the State Board of Education shall postpone its evaluation until the dispute is resolved. Upon receipt of such reports or if otherwise made aware that such evaluations have not been conducted, the State Board of Education shall enter upon the district premises and evaluate the teachers in accordance with an evaluation plan developed by the State Board of Education, which plan shall parallel as closely as possible the requirements of this Article subsections (a) through (d) of Section 24A-5. The results of the State Board evaluation shall be communicated to the school board, which shall supply a copy to the teacher, place a copy in the teacher's personnel file, and, where necessary, undertake a remediation program as provided for in this Article defined in subsections (f) through (j) of Section 24A-5.~~

(Source: P.A. 86-201.)

(105 ILCS 5/24A-8) (from Ch. 122, par. 24A-8)

~~Sec. 24A-8. Content of evaluation plans for Evaluation of teachers not in contractual continued service. This Section does not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code. Each school district to which this Article applies shall establish a teacher evaluation plan that ensures that each Beginning with the 1987-88 school year each teacher not in contractual continued service shall be evaluated at least once each school year. The district's evaluation plan and any substantive change in it must be developed by the district at least in cooperation with its teachers or, where applicable, the exclusive bargaining representative of its teachers.~~

The evaluation plan shall comply with the requirements of this Section and of any rules adopted by

the State Board of Education pursuant to this Section.

The plan shall include a description of each teacher's duties and responsibilities and of the standards to which that teacher is expected to conform. Beginning with the 2010-2011 school year, these standards may include the Illinois Professional Teaching Standards, provided that in a district subject to a collective bargaining agreement as of the effective date of this amendatory Act of the 96th General Assembly, any changes made by this amendatory Act of the 96th General Assembly shall go into effect in that district only upon expiration of that agreement, unless otherwise agreed to by the district and the exclusive bargaining representative of its teachers.

The evaluation of teachers shall be conducted by an administrator qualified under Section 24A-3 of this Code, provided that some or all the duties of administrators under this Section may be delegated to other school employees if the school district and exclusive bargaining representative of its teachers negotiate and agree to it as part of an alternative plan under this Section. The evaluation shall include at least the following components:

(1) Personal observation of the teacher in the classroom on at least 2 different school days by a district administrator qualified under Section 24A-3 of this Code, unless the teacher has no classroom duties. A written summary of the observation, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date of the observation, unless an applicable collective bargaining agreement provides to the contrary.

(2) Consideration of the teacher's attendance, planning, and instructional methods, classroom management, where relevant, and competency in the subject matter taught, where relevant.

(3) Specification as to the teacher's strengths and weaknesses, with details of specific examples and supporting reasons for the comments made.

(4) Provision of a copy of the evaluation to the teacher and inclusion of the copy and the teacher's response to it in the teacher's personnel file.

Notwithstanding subdivisions (1) through (4) of this Section, each school district and the exclusive bargaining representative of its teachers may negotiate and agree to an alternative evaluation plan for its teachers that does not include or modifies one or more of the foregoing components. The alternative plan may in part use growth model assessment, peer assistance, and peer review to evaluate teachers, provided that individual teacher data based upon student performance and progress shall be confidential and shall not be a public record.

(Source: P.A. 84-1419.)

(105 ILCS 5/29-5) (from Ch. 122, par. 29-5)

Sec. 29-5. Reimbursement by State for transportation. Any school district, maintaining a school, transporting resident pupils to another school district's vocational program, offered through a joint agreement approved by the State Board of Education, as provided in Section 10-22.22 or transporting its resident pupils to a school which meets the standards for recognition as established by the State Board of Education which provides transportation meeting the standards of safety, comfort, convenience, efficiency and operation prescribed by the State Board of Education for resident pupils in kindergarten or any of grades 1 through 12 who: (a) reside at least 1 1/2 miles as measured by the customary route of travel, from the school attended; or (b) reside in areas where conditions are such that walking constitutes a hazard to the safety of the child when determined under Section 29-3; and (c) are transported to the school attended from pick-up points at the beginning of the school day and back again at the close of the school day or transported to and from their assigned attendance centers during the school day, shall be reimbursed by the State as hereinafter provided in this Section.

The State will pay the cost of transporting eligible pupils less the assessed valuation in a dual school district maintaining secondary grades 9 to 12 inclusive times a qualifying rate of .05%; in elementary school districts maintaining grades K to 8 times a qualifying rate of .06%; and in unit districts maintaining grades K to 12, including optional elementary unit districts and combined high school - unit districts, times a qualifying rate of .07%; provided that for optional elementary unit districts and combined high school - unit districts, assessed valuation for high school purposes, as defined in Article 11E of this Code, must be used. To be eligible to receive reimbursement in excess of 4/5 of the cost to transport eligible pupils, a school district shall have a Transportation Fund tax rate of at least .12%. If a school district does not have a .12% Transportation Fund tax rate, the amount of its claim in excess of 4/5 of the cost of transporting pupils shall be reduced by the sum arrived at by subtracting the Transportation Fund tax rate from .12% and multiplying that amount by the districts equalized or assessed valuation, provided, that in no case shall said reduction result in reimbursement of less than 4/5 of the cost to transport eligible pupils.

The minimum amount to be received by a district is \$16 times the number of eligible pupils

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transported.

When calculating the reimbursement for transportation costs, the State Board of Education may not deduct the number of pupils enrolled in early education programs from the number of pupils eligible for reimbursement if the pupils enrolled in the early education programs are transported at the same time as other eligible pupils.

Any such district transporting resident pupils during the school day to an area vocational school or another school district's vocational program more than 1 1/2 miles from the school attended, as provided in Sections 10-22.20a and 10-22.22, shall be reimbursed by the State for 4/5 of the cost of transporting eligible pupils.

School day means that period of time which the pupil is required to be in attendance for instructional purposes.

If a pupil is at a location within the school district other than his residence for child care purposes at the time for transportation to school, that location may be considered for purposes of determining the 1 1/2 miles from the school attended.

Claims for reimbursement that include children who attend any school other than a public school shall show the number of such children transported.

Claims for reimbursement under this Section shall not be paid for the transportation of pupils for whom transportation costs are claimed for payment under other Sections of this Act.

The allowable direct cost of transporting pupils for regular, vocational, and special education pupil transportation shall be limited to the sum of the cost of physical examinations required for employment as a school bus driver; the salaries of full or part-time drivers and school bus maintenance personnel; employee benefits excluding Illinois municipal retirement payments, social security payments, unemployment insurance payments and workers' compensation insurance premiums; expenditures to independent carriers who operate school buses; payments to other school districts for pupil transportation services; pre-approved contractual expenditures for computerized bus scheduling; the cost of gasoline, oil, tires, and other supplies necessary for the operation of school buses; the cost of converting buses' gasoline engines to more fuel efficient engines or to engines which use alternative energy sources; the cost of travel to meetings and workshops conducted by the regional superintendent or the State Superintendent of Education pursuant to the standards established by the Secretary of State under Section 6-106 of the Illinois Vehicle Code to improve the driving skills of school bus drivers; the cost of maintenance of school buses including parts and materials used; expenditures for leasing transportation vehicles, except interest and service charges; the cost of insurance and licenses for transportation vehicles; expenditures for the rental of transportation equipment; plus a depreciation allowance of 20% for 5 years for school buses and vehicles approved for transporting pupils to and from school and a depreciation allowance of 10% for 10 years for other transportation equipment so used. Each school year, if a school district has made expenditures to the Regional Transportation Authority or any of its service boards, a mass transit district, or an urban transportation district under an intergovernmental agreement with the district to provide for the transportation of pupils and if the public transit carrier received direct payment for services or passes from a school district within its service area during the 2000-2001 school year, then the allowable direct cost of transporting pupils for regular, vocational, and special education pupil transportation shall also include the expenditures that the district has made to the public transit carrier. In addition to the above allowable costs school districts shall also claim all transportation supervisory salary costs, including Illinois municipal retirement payments, and all transportation related building and building maintenance costs without limitation.

Special education allowable costs shall also include expenditures for the salaries of attendants or aides for that portion of the time they assist special education pupils while in transit and expenditures for parents and public carriers for transporting special education pupils when pre-approved by the State Superintendent of Education.

Indirect costs shall be included in the reimbursement claim for districts which own and operate their own school buses. Such indirect costs shall include administrative costs, or any costs attributable to transporting pupils from their attendance centers to another school building for instructional purposes. No school district which owns and operates its own school buses may claim reimbursement for indirect costs which exceed 5% of the total allowable direct costs for pupil transportation.

The State Board of Education shall prescribe uniform regulations for determining the above standards and shall prescribe forms of cost accounting and standards of determining reasonable depreciation. Such depreciation shall include the cost of equipping school buses with the safety features required by law or by the rules, regulations and standards promulgated by the State Board of Education, and the Department of Transportation for the safety and construction of school buses provided, however, any equipment cost reimbursed by the Department of Transportation for equipping school buses with such safety equipment

shall be deducted from the allowable cost in the computation of reimbursement under this Section in the same percentage as the cost of the equipment is depreciated.

On or before August 15, annually, the chief school administrator for the district shall certify to the State Superintendent of Education the district's claim for reimbursement for the school year ending on June 30 next preceding. The State Superintendent of Education shall check and approve the claims and prepare the vouchers showing the amounts due for district reimbursement claims. Each fiscal year, the State Superintendent of Education shall prepare and transmit the first 3 vouchers to the Comptroller on the 30th day of September, December and March, respectively, and the final voucher, no later than June 20.

If the amount appropriated for transportation reimbursement is insufficient to fund total claims for any fiscal year, the State Board of Education shall reduce each school district's allowable costs and flat grant amount proportionately to make total adjusted claims equal the total amount appropriated.

For purposes of calculating claims for reimbursement under this Section for any school year beginning July 1, 1998, or thereafter, the equalized assessed valuation for a school district used to compute reimbursement shall be computed in the same manner as it is computed under paragraph (2) of subsection (G) of Section 18-8.05.

All reimbursements received from the State shall be deposited into the district's transportation fund or into the fund from which the allowable expenditures were made.

Notwithstanding any other provision of law, any school district receiving a payment under this Section or under Section 14-7.02, 14-7.02b, or 14-13.01 of this Code may classify all or a portion of the funds that it receives in a particular fiscal year or from general State aid pursuant to Section 18-8.05 of this Code as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referenced in this Section), regardless of the source or timing of the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any payments or general State aid to be classified under this paragraph and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this paragraph by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this paragraph by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to that funding program, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of providing services.

Any school district with a population of not more than 500,000 must deposit all funds received under this Article into the transportation fund and use those funds for the provision of transportation services. (Source: P.A. 94-875, eff. 7-1-06; 95-903, eff. 8-25-08.)

(105 ILCS 5/34-18.37 new)

Sec. 34-18.37. Financial policies. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, the board shall adopt a formal, written financial policy. The policy may include information in the following areas:

- (1) Debt capacity, issuance, and management.
- (2) Capital asset management.
- (3) Reserve or stabilization fund goals.
- (4) Periodic budget to actual comparison reports.
- (5) Fees and charges.
- (6) The use of one-time revenue.
- (7) Risk management related to internal controls.
- (8) Purchasing.
- (9) Vehicle acquisition and maintenance.

The board shall make the policy publicly available.

(105 ILCS 5/34-18.38 new)

Sec. 34-18.38. Long-term financial plan. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, the board shall develop a long-term financial plan that extends over at least a 3-year period and that is updated and approved annually. The plan must include multi-year forecasts of revenues, expenditures, and debt. The board may make the plan available

to the public by publishing it as a separate document and submitting it with the annual budget or by posting the plan as a document on the school district's Internet website. The forecasts that are the foundation of the plan must be available to participants in the budget process before budgetary decisions are made. The public must be provided opportunities for providing dialog with respect to the long-term financial planning process. Public access and review shall take place as part of the official budget hearing process in accordance with Section 34-46 of this Code.

(105 ILCS 5/34-18.39 new)

Sec. 34-18.39. Capital improvement plan. Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, the board shall develop a 5-year capital improvement plan that is updated and approved annually. The plan must include a summary list of the description of the capital projects to be completed over the next 5 years, along with projected expenditures, and revenue sources. The board shall make the plan available to the public. The board shall hold a public hearing on the capital improvement plan, which hearing may be held at a regularly scheduled meeting of the board. This hearing shall be held in the same manner and subject to the same notice and other requirements as the public hearing required prior to adoption of the budget in conformity with Section 34-46 of this Code.

(105 ILCS 5/34-18.40 new)

Sec. 34-18.40. School district financial accountability.

(a) The board shall annually include a user-friendly executive summary as part of the district's budget. The executive summary shall include all of the following:

(1) The district's major goals and objectives.
(2) A discussion of the major financial factors and trends affecting the budget, such as changes in revenues, enrollment, and debt.

(3) A description of the budget process.

(4) An overview of revenues and expenditures for all funds, including at least 3 to 5 years of prior and future trends, based on data from the annual financial report.

(5) An explanation of significant financial and demographic trends.

(6) An explanation of the reasons for a budget deficit and an explanation of how the deficit is being addressed.

(7) A budget forecast for at least 3 to 5 years in the future.

(8) Student enrollment trends, including a future forecast.

(9) The number of personnel by type.

(10) Changes in both the long term and short term debt burden.

(b) Beginning with the second fiscal year after the effective date of this amendatory Act of the 96th General Assembly, the board shall annually include in the full budget document the following items; any or all of the following items may be published as separate documents provided that they are explicitly referenced in the annual budget and attached thereto and provided that they are made publicly available at the same time as the tentative budget document:

(1) An organizational chart.

(2) Formal financial policies pursuant to Section 34-18.37 of this Code.

(3) The district's long-term financial plan pursuant to Section 34-18.38 of this Code or a summary of the long-term financial plan.

(4) The district's capital improvement plan pursuant to Section 34-18.39 of this Code or a summary of the capital improvement plan.

(105 ILCS 5/34-18.41 new)

Sec. 34-18.41. Audit committee. The board shall establish an audit committee, which may include members of the board, other appropriate officers, or persons who do not serve on the board, to review audit reports and any other financial reports and documents, including management letters prepared by or on behalf of the board. Nothing in this Section prohibits the school district from maintaining its own internal audit function.

(105 ILCS 5/3-6 rep.) (105 ILCS 5/3-6.1 rep.)

Section 90. The School Code is amended by repealing Sections 3-6 and 3-6.1.

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

Senator Meeks moved that the foregoing amendment be ordered to lie on the table.

The motion to table prevailed.

Senator Meeks offered the following amendment:

[May 28, 2009]

AMENDMENT NO. 3 TO SENATE BILL 750

AMENDMENT NO. 3. Amend Senate Bill 750, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 45, line 5, by replacing "2010" with "2010 and each calendar year thereafter".

Senator Meeks moved that the foregoing amendment be ordered to lie on the table.

The motion to table prevailed.

Senate Floor Amendment No. 4 was referred to the Committee on Assignments earlier today.

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

Senator Burzynski asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 7:00 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 7:33 o'clock p.m., the Senate resumed consideration of business.

Senator Hendon, presiding.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 4 to House Bill 7

Senate Floor Amendment No. 5 to House Bill 7

Senate Floor Amendment No. 6 to House Bill 7

Senate Floor Amendment No. 7 to House Bill 7

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILL ON SECRETARY'S DESK

On motion of Senator Raoul, **Senate Bill No. 189**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Raoul moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAY 1.

The following voted in the affirmative:

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

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Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The following voted in the negative:

Dahl

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 189**.

Ordered that the Secretary inform the House of Representatives thereof.

MOTION

Senator Dillard moved that pursuant to Senate Rule 7-9, the Senate Committee on Assignments be discharged from further consideration of Floor Amendment No. 2 to Senate Bill 350 and that Floor Amendment No. 2 to Senate Bill 350 be approved for consideration.

The Chair ruled that pursuant to Senate Rule 7-4, the motion must be made in writing.

Senators Dillard moved to appeal the ruling of the Chair and requested a roll call vote.

And the question being, "Shall the ruling of the Chair be sustained?" a call of the roll was had resulting as follows:

YEAS 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	Radogno	

The motion prevailed.

And the ruling of the Chair was sustained.

MOTION

Senator Radogno moved that pursuant to Senate Rule 7-9, the Senate Committee on Assignments be discharged from further consideration of Floor Amendment No. 3 to House Bill 7 and that Floor Amendment No. 3 to House Bill 7 be approved for consideration.

The Chair ruled that pursuant to Senate Rule 7-4, the motion be referred to the Committee on Assignments.

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Senator Radogno moved to appeal the ruling of the Chair and requested a roll call vote.

And the question being, "Shall the ruling of the Chair be sustained?" a call of the roll was had resulting as follows:

And on that motion, a call of the roll was had resulting as follows:

YEAS 37; NAYS 22.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Dillard	McCarter	Risinger
Bomke	Duffy	Millner	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	Radogno	

The motion prevailed.

And the ruling of the Chair was sustained.

HOUSE BILL RECALLED

On motion of Senator Harmon, **House Bill No. 7** 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 HOUSE BILL 7

AMENDMENT NO. 1. Amend House Bill 7 by replacing everything after the enacting clause with the following:

"Section 5. The Election Code is amended by changing Sections 7-8, 9-1.4, 9-1.5, 9-1.6, 9-1.7, 9-1.8, 9-1.14, 9-3, 9-4, 9-7.5, 9-10, 9-13, 9-14, 9-21, 9-23, 9-28, and 9-30 and by adding Sections 9-8.5, 9-8.6, 9-23.5, and 9-28.5 as follows:

(10 ILCS 5/7-8) (from Ch. 46, par. 7-8)

Sec. 7-8. The State central committee shall be composed of one or two members from each congressional district in the State and shall be elected as follows:

State Central Committee

(a) Within 30 days after the effective date of this amendatory Act of 1983 the State central committee of each political party shall certify to the State Board of Elections which of the following alternatives it wishes to apply to the State central committee of that party.

Alternative A. At the primary in 1970 and at the general primary election held every 4 years thereafter, each primary elector may vote for one candidate of his party for member of the State central committee for the congressional district in which he resides. The candidate receiving the highest number of votes shall be declared elected State central committeeman from the district. A political party may, in lieu of the foregoing, by a majority vote of delegates at any State convention of such party, determine to

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thereafter elect the State central committeemen in the manner following:

At the county convention held by such political party State central committeemen shall be elected in the same manner as provided in this Article for the election of officers of the county central committee, and such election shall follow the election of officers of the county central committee. Each elected ward, township or precinct committeeman shall cast as his vote one vote for each ballot voted in his ward, township, part of a township or precinct in the last preceding primary election of his political party. In the case of a county lying partially within one congressional district and partially within another congressional district, each ward, township or precinct committeeman shall vote only with respect to the congressional district in which his ward, township, part of a township or precinct is located. In the case of a congressional district which encompasses more than one county, each ward, township or precinct committeeman residing within the congressional district shall cast as his vote one vote for each ballot voted in his ward, township, part of a township or precinct in the last preceding primary election of his political party for one candidate of his party for member of the State central committee for the congressional district in which he resides and the Chairman of the county central committee shall report the results of the election to the State Board of Elections. The State Board of Elections shall certify the candidate receiving the highest number of votes elected State central committeeman for that congressional district.

The State central committee shall adopt rules to provide for and govern the procedures to be followed in the election of members of the State central committee.

After the effective date of this amendatory Act of the 91st General Assembly, whenever a vacancy occurs in the office of Chairman of a State central committee, or at the end of the term of office of Chairman, the State central committee of each political party that has selected Alternative A shall elect a Chairman who shall not be required to be a member of the State Central Committee. The Chairman shall be a registered voter in this State and of the same political party as the State central committee.

Alternative B. Each congressional committee shall, within 30 days after the adoption of this alternative, appoint a person of the sex opposite that of the incumbent member for that congressional district to serve as an additional member of the State central committee until his or her successor is elected at the general primary election in 1986. Each congressional committee shall make this appointment by voting on the basis set forth in paragraph (e) of this Section. In each congressional district at the general primary election held in 1986 and every 4 years thereafter, the male candidate receiving the highest number of votes of the party's male candidates for State central committeeman, and the female candidate receiving the highest number of votes of the party's female candidates for State central committeewoman, shall be declared elected State central committeeman and State central committeewoman from the district. At the general primary election held in 1986 and every 4 years thereafter, if all a party's candidates for State central committeemen or State central committeewomen from a congressional district are of the same sex, the candidate receiving the highest number of votes shall be declared elected a State central committeeman or State central committeewoman from the district, and, because of a failure to elect one male and one female to the committee, a vacancy shall be declared to exist in the office of the second member of the State central committee from the district. This vacancy shall be filled by appointment by the congressional committee of the political party, and the person appointed to fill the vacancy shall be a resident of the congressional district and of the sex opposite that of the committeeman or committeewoman elected at the general primary election. Each congressional committee shall make this appointment by voting on the basis set forth in paragraph (e) of this Section.

The Chairman of a State central committee composed as provided in this Alternative B must be selected from the committee's members.

Except as provided for in Alternative A with respect to the selection of the Chairman of the State central committee, under both of the foregoing alternatives, the State central committee of each political party shall be composed of members elected or appointed from the several congressional districts of the State, and of no other person or persons whomsoever. The members of the State central committee shall, within 41 days after each quadrennial election of the full committee, meet in the city of Springfield and organize by electing a chairman, and may at such time elect such officers from among their own number (or otherwise), as they may deem necessary or expedient. The outgoing chairman of the State central committee of the party shall, 10 days before the meeting, notify each member of the State central committee elected at the primary of the time and place of such meeting. In the organization and proceedings of the State central committee, each State central committeeman and State central committeewoman shall have one vote for each ballot voted in his or her congressional district by the primary electors of his or her party at the primary election immediately preceding the meeting of the State central committee. Whenever a vacancy occurs in the State central committee of any political

party, the vacancy shall be filled by appointment of the chairmen of the county central committees of the political party of the counties located within the congressional district in which the vacancy occurs and, if applicable, the ward and township committeemen of the political party in counties of 2,000,000 or more inhabitants located within the congressional district. If the congressional district in which the vacancy occurs lies wholly within a county of 2,000,000 or more inhabitants, the ward and township committeemen of the political party in that congressional district shall vote to fill the vacancy. In voting to fill the vacancy, each chairman of a county central committee and each ward and township committeeman in counties of 2,000,000 or more inhabitants shall have one vote for each ballot voted in each precinct of the congressional district in which the vacancy exists of his or her county, township, or ward cast by the primary electors of his or her party at the primary election immediately preceding the meeting to fill the vacancy in the State central committee. The person appointed to fill the vacancy shall be a resident of the congressional district in which the vacancy occurs, shall be a qualified voter, and, in a committee composed as provided in Alternative B, shall be of the same sex as his or her predecessor. A political party may, by a majority vote of the delegates of any State convention of such party, determine to return to the election of State central committeeman and State central committeewoman by the vote of primary electors. Any action taken by a political party at a State convention in accordance with this Section shall be reported to the State Board of Elections by the chairman and secretary of such convention within 10 days after such action.

Ward, Township and Precinct Committeemen

(b) At the primary in 1972 and at the general primary election every 4 years thereafter, each primary elector in cities having a population of 200,000 or over may vote for one candidate of his party in his ward for ward committeeman. Each candidate for ward committeeman must be a resident of and in the ward where he seeks to be elected ward committeeman. The one having the highest number of votes shall be such ward committeeman of such party for such ward. At the primary election in 1970 and at the general primary election every 4 years thereafter, each primary elector in counties containing a population of 2,000,000 or more, outside of cities containing a population of 200,000 or more, may vote for one candidate of his party for township committeeman. Each candidate for township committeeman must be a resident of and in the township or part of a township (which lies outside of a city having a population of 200,000 or more, in counties containing a population of 2,000,000 or more), and in which township or part of a township he seeks to be elected township committeeman. The one having the highest number of votes shall be such township committeeman of such party for such township or part of a township. At the primary in 1970 and at the general primary election every 2 years thereafter, each primary elector, except in counties having a population of 2,000,000 or over, may vote for one candidate of his party in his precinct for precinct committeeman. Each candidate for precinct committeeman must be a bona fide resident of the precinct where he seeks to be elected precinct committeeman. The one having the highest number of votes shall be such precinct committeeman of such party for such precinct. The official returns of the primary shall show the name of the committeeman of each political party.

Terms of Committeemen. All precinct committeemen elected under the provisions of this Article shall continue as such committeemen until the date of the primary to be held in the second year after their election. Except as otherwise provided in this Section for certain State central committeemen who have 2 year terms, all State central committeemen, township committeemen and ward committeemen shall continue as such committeemen until the date of primary to be held in the fourth year after their election. However, a vacancy exists in the office of precinct committeeman when a precinct committeeman ceases to reside in the precinct in which he was elected and such precinct committeeman shall thereafter neither have nor exercise any rights, powers or duties as committeeman in that precinct, even if a successor has not been elected or appointed.

(c) The Multi-Township Central Committee shall consist of the precinct committeemen of such party, in the multi-township assessing district formed pursuant to Section 2-10 of the Property Tax Code and shall be organized for the purposes set forth in Section 45-25 of the Township Code. In the organization and proceedings of the Multi-Township Central Committee each precinct committeeman shall have one vote for each ballot voted in his precinct by the primary electors of his party at the primary at which he was elected.

County Central Committee

(d) The county central committee of each political party in each county shall consist of the various township committeemen, precinct committeemen and ward committeemen, if any, of such party in the county. In the organization and proceedings of the county central committee, each precinct committeeman shall have one vote for each ballot voted in his precinct by the primary electors of his party at the primary at which he was elected; each township committeeman shall have one vote for each ballot voted in his township or part of a township as the case may be by the primary electors of his party

at the primary election for the nomination of candidates for election to the General Assembly immediately preceding the meeting of the county central committee; and in the organization and proceedings of the county central committee, each ward committeeman shall have one vote for each ballot voted in his ward by the primary electors of his party at the primary election for the nomination of candidates for election to the General Assembly immediately preceding the meeting of the county central committee.

Cook County Board of Review Election District Committee

(d-1) Each board of review election district committee of each political party in Cook County shall consist of the various township committeemen and ward committeemen, if any, of that party in the portions of the county composing the board of review election district. In the organization and proceedings of each of the 3 election district committees, each township committeeman shall have one vote for each ballot voted in his or her township or part of a township, as the case may be, by the primary electors of his or her party at the primary election immediately preceding the meeting of the board of review election district committee; and in the organization and proceedings of each of the 3 election district committees, each ward committeeman shall have one vote for each ballot voted in his or her ward or part of that ward, as the case may be, by the primary electors of his or her party at the primary election immediately preceding the meeting of the board of review election district committee.

Congressional Committee

(e) The congressional committee of each party in each congressional district shall be composed of the chairmen of the county central committees of the counties composing the congressional district, except that in congressional districts wholly within the territorial limits of one county, the precinct committeemen, township committeemen and ward committeemen, if any, of the party representing the precincts within the limits of the congressional district, shall compose the congressional committee. A State central committeeman in each district shall be a member and the chairman or, when a district has 2 State central committeemen, a co-chairman of the congressional committee, but shall not have the right to vote except in case of a tie.

In the organization and proceedings of congressional committees composed of precinct committeemen or township committeemen or ward committeemen, or any combination thereof, each precinct committeeman shall have one vote for each ballot voted in his precinct by the primary electors of his party at the primary at which he was elected, each township committeeman shall have one vote for each ballot voted in his township or part of a township as the case may be by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee, and each ward committeeman shall have one vote for each ballot voted in each precinct of his ward located in such congressional district by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee; and in the organization and proceedings of congressional committees composed of the chairmen of the county central committees of the counties within such district, each chairman of such county central committee shall have one vote for each ballot voted in his county by the primary electors of his party at the primary election immediately preceding the meeting of the congressional committee.

Judicial District Committee

(f) The judicial district committee of each political party in each judicial district shall be composed of the chairman of the county central committees of the counties composing the judicial district.

In the organization and proceedings of judicial district committees composed of the chairmen of the county central committees of the counties within such district, each chairman of such county central committee shall have one vote for each ballot voted in his county by the primary electors of his party at the primary election immediately preceding the meeting of the judicial district committee.

Circuit Court Committee

(g) The circuit court committee of each political party in each judicial circuit outside Cook County shall be composed of the chairmen of the county central committees of the counties composing the judicial circuit.

In the organization and proceedings of circuit court committees, each chairman of a county central committee shall have one vote for each ballot voted in his county by the primary electors of his party at the primary election immediately preceding the meeting of the circuit court committee.

Judicial Subcircuit Committee

(g-1) The judicial subcircuit committee of each political party in each judicial subcircuit in a judicial circuit divided into subcircuits shall be composed of (i) the ward and township committeemen of the townships and wards composing the judicial subcircuit in Cook County and (ii) the precinct committeemen of the precincts composing the judicial subcircuit in any county other than Cook County.

In the organization and proceedings of each judicial subcircuit committee, each township

committeeman shall have one vote for each ballot voted in his township or part of a township, as the case may be, in the judicial subcircuit by the primary electors of his party at the primary election immediately preceding the meeting of the judicial subcircuit committee; each precinct committeeman shall have one vote for each ballot voted in his precinct or part of a precinct, as the case may be, in the judicial subcircuit by the primary electors of his party at the primary election immediately preceding the meeting of the judicial subcircuit committee; and each ward committeeman shall have one vote for each ballot voted in his ward or part of a ward, as the case may be, in the judicial subcircuit by the primary electors of his party at the primary election immediately preceding the meeting of the judicial subcircuit committee.

Municipal Central Committee

(h) The municipal central committee of each political party shall be composed of the precinct, township or ward committeemen, as the case may be, of such party representing the precincts or wards, embraced in such city, incorporated town or village. The voting strength of each precinct, township or ward committeeman on the municipal central committee shall be the same as his voting strength on the county central committee.

For political parties, other than a statewide political party, established only within a municipality or township, the municipal or township managing committee shall be composed of the party officers of the local established party. The party officers of a local established party shall be as follows: the chairman and secretary of the caucus for those municipalities and townships authorized by statute to nominate candidates by caucus shall serve as party officers for the purpose of filling vacancies in nomination under Section 7-61; for municipalities and townships authorized by statute or ordinance to nominate candidates by petition and primary election, the party officers shall be the party's candidates who are nominated at the primary. If no party primary was held because of the provisions of Section 7-5, vacancies in nomination shall be filled by the party's remaining candidates who shall serve as the party's officers.

Powers

(i) Each committee and its officers shall have the powers usually exercised by such committees and by the officers thereof, not inconsistent with the provisions of this Article. The several committees herein provided for shall not have power to delegate any of their powers, or functions to any other person, officer or committee, but this shall not be construed to prevent a committee from appointing from its own membership proper and necessary subcommittees.

(j) The State central committee of a political party which elects its members by Alternative B under paragraph (a) of this Section shall adopt a plan to give effect to the delegate selection rules of the national political party and file a copy of such plan with the State Board of Elections when approved by a national political party.

(k) For the purpose of the designation of a proxy by a Congressional Committee to vote in place of an absent State central committeeman or committeewoman at meetings of the State central committee of a political party which elects its members by Alternative B under paragraph (a) of this Section, the proxy shall be appointed by the vote of the ward and township committeemen, if any, of the wards and townships which lie entirely or partially within the Congressional District from which the absent State central committeeman or committeewoman was elected and the vote of the chairmen of the county central committees of those counties which lie entirely or partially within that Congressional District and in which there are no ward or township committeemen. When voting for such proxy the county chairman, ward committeeman or township committeeman, as the case may be shall have one vote for each ballot voted in his county, ward or township, or portion thereof within the Congressional District, by the primary electors of his party at the primary at which he was elected. However, the absent State central committeeman or committeewoman may designate a proxy when permitted by the rules of a political party which elects its members by Alternative B under paragraph (a) of this Section.

Notwithstanding any law to the contrary, a person is ineligible to hold the position of committeeperson in any committee established pursuant to this Section if he or she is statutorily ineligible to vote in a general election because of conviction of a felony. When a committeeperson is convicted of a felony, the position occupied by that committeeperson shall automatically become vacant.

(l) A State central committee organized under Alternative B of this Section shall not make any contributions, expenditures, or electioneering communications on behalf of a candidate for nomination for any office in that party's primary election. The State central committee also shall not endorse candidates for nomination in its party's primary election. The terms "contribution", "expenditure", and "electioneering communication" shall have the meanings defined in Article 9 of this Code.

(Source: P.A. 94-645, eff. 8-22-05; 95-6, eff. 6-20-07; 95-699, eff. 11-9-07.)

(10 ILCS 5/9-1.4) (from Ch. 46, par. 9-1.4)

Sec. 9-1.4. Contribution.

(A) "Contribution" means-

(1) a gift, subscription, donation, dues, loan, advance, or deposit of money or anything of value, knowingly received in connection with the nomination for election, ~~or~~ election, or retention of any person to or in public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, ~~or~~ in connection with any question of public policy, or by a constituent services committee as provided in Section 9-8.5;

(1.5) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents;

(2) the purchase of tickets for fund-raising events, including but not limited to dinners, luncheons, cocktail parties, and rallies made in connection with the nomination for election, ~~or~~ election, or retention of any person to or in public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, ~~or~~ in connection with any question of public policy, or for a constituent services committee as provided in Section 9-8.5;

(3) a transfer of funds between political committees; ~~and~~

(4) the services of an employee donated by an employer, in which case the contribution shall be listed in the name of the employer, except that any individual services provided voluntarily and without promise or expectation of compensation from any source shall not be deemed a contribution; and

(5) any expenditure made in cooperation, consultation, or concert with the committee, other than with a multi-candidate committee, but

(B) "Contribution" (~~S~~) does not include--

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; -

(c) communications on any subject by a corporation to its stockholders and executive or administrative personnel and their families, by a labor organization to its members and executive or administrative personnel and their families, or by an association to its members and executive or administrative personnel and their families;

(d) voter registration and get-out-the-vote campaigns that make no mention of any clearly identified candidate, public question, or political party, or group or combination thereof;

(e) an expenditure by a multi-candidate committee organized pursuant to Section 9-8.5(c) that benefits a candidate or candidates identified in the multi-candidate committee's statement of organization;

(f) a secured loan of money by a national or State bank or credit union made in accordance with the applicable banking laws and regulations and in the ordinary course of business; however, the use, ownership, or control of any security for such a loan, if provided by a person other than the candidate or his or her committee, qualifies as a contribution; or

(g) an independent expenditure.

(C) Interest or other investment income, earnings or proceeds, and refunds or returns of all or part of a committee's previous expenditures, shall not be considered contributions for the purposes of Section 9-8.5 but shall be listed with contributions on disclosure reports required by this Article.

(Source: P.A. 94-645, eff. 8-22-05.)

(10 ILCS 5/9-1.5) (from Ch. 46, par. 9-1.5)

Sec. 9-1.5. Expenditure defined.

(A) "Expenditure" means-

(1) a payment, distribution, purchase, loan, advance, deposit, or gift of money or anything of value, in connection with the nomination for election, ~~or~~ election, or retention of any person to or in public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, ~~or~~ in connection with any question of public policy, or by a constituent services committee as provided in Section 9-8.5. "Expenditure" also includes a payment,

distribution, purchase, loan, advance, deposit, or gift of money or anything of value that constitutes an electioneering communication regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents.

(B) "Expenditure" ~~However, expenditure~~ does not include -

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor.

(2) a transfer of funds between political committees.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 93-847, eff. 7-30-04.)

(10 ILCS 5/9-1.6) (from Ch. 46, par. 9-1.6)

Sec. 9-1.6. Person, "Person" or "whoever" means a natural person an individual, trust, partnership, committee, association, corporation, or any other organization or group of persons.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.7) (from Ch. 46, par. 9-1.7)

Sec. 9-1.7. "Local political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or other organization or group of persons which:

(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the county clerk, or on behalf of or in opposition to a candidate or candidates for election to the office of ward or township committeeman in counties of 3,000,000 or more population;

(b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing no more than one county. The \$3,000 threshold established in this paragraph (b) applies to any receipts or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body;

(c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the County Clerk or a candidate or candidates for the office of ward or township committeeman in counties of 3,000,000 or more population; ~~or~~

(d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b); or

(e) makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).

(Source: P.A. 95-963, eff. 1-1-09.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. "State political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which--

(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the Secretary of State,

(b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the

electors of an area encompassing more than one county. The \$3,000 threshold established in this paragraph (b) applies to any receipts or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body,

(c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the Secretary of State, ~~or~~

(d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b), or

(e) makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b) .

(Source: P.A. 95-963, eff. 1-1-09.)

(10 ILCS 5/9-1.14)

Sec. 9-1.14. Electioneering communication defined.

(a) "Electioneering communication" means, for the purposes of this Article, any ~~broadcast form of~~ communication, ~~in whatever medium~~, including but not limited to a ~~newspaper~~, radio, television, or Internet communication, that (1) refers to a clearly identified candidate or candidates who will appear on the ballot ~~for nomination, election, or retention~~, refers to a clearly identified political party, or refers to a clearly identified question of public policy that will appear on the ballot; ~~and~~ (2) is made within (i) 60 days before a general election or consolidated election or (ii) 30 days before a primary election ; (3) is targeted to the relevant electorate; and (4) is susceptible to no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate for nomination, election, or retention, political party, or question of public policy.

(b) "Electioneering communication" does not include:

(1) A communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.

(2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring the debate or forum.

(3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.

(4) A communication by an organization operating and remaining in good standing under Section 501(c)(3) of the Internal Revenue Code of 1986.

(5) A communication exclusively between a labor organization, as defined under federal or State law, and its members.

(6) A communication exclusively between an organization formed under Section 501(c)(6) of the Internal Revenue Code and its members.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 93-847, eff. 7-30-04; 94-461, eff. 8-4-05; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-3) (from Ch. 46, par. 9-3)

Sec. 9-3. Every state political committee and every local political committee shall file with the State Board of Elections, and every local political committee shall file with the county clerk, a statement of organization within 10 business days of the creation of such committee, except any political committee created within the 30 days before an election shall file a statement of organization within 5 business days. A political committee that acts as both a state political committee and a local political committee shall file a copy of each statement of organization with the State Board of Elections and the county clerk. The Board shall impose a civil penalty of \$25 per business day upon political committees for failing to file or late filing of a statement of organization, except that for committees formed to support candidates for statewide office, the civil penalty shall be \$50 per business day. Such penalties shall not exceed \$5,000, and shall not exceed \$10,000 for statewide office political committees. There shall be no fine if the statement is mailed and postmarked at least 72 hours prior to the filing deadline.

In addition to the civil penalties authorized by this Section, the State Board of Elections or any other affected political committee may apply to the circuit court for a temporary restraining order or a

preliminary or permanent injunction against the political committee to cease the expenditure of funds and to cease operations until the statement of organization is filed.

For the purpose of this Section, "statewide office" means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller.

The statement of organization shall include -

- (a) the name and address of the political committee (the name of the political committee must include the name of any sponsoring entity);
- (b) the scope, area of activity, party affiliation, candidate affiliation and his county of residence, and purposes of the political committee;
- (c) the name, address, and position of each custodian of the committee's books and accounts;
- (d) the name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any;
- (e) any additional information required by Section 9-8.5 ~~(Blank)~~;
- (f) a statement of what specific disposition of residual fund will be made in the event of the dissolution or termination of the committee;
- (g) a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee;
- (h) the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization.

For purposes of this Section, a "sponsoring entity" is (i) any person, political committee, organization, corporation, or association that contributes at least 33% of the total funding of the political committee or (ii) any person or other entity that is registered or is required to register under the Lobbyist Registration Act and contributes at least 33% of the total funding of the political committee; except that a political committee is not a "sponsoring entity" for purposes of this Section if it is a political committee organized by (i) an established political party as defined in Section 10-2, (ii) a partisan caucus of either house of the General Assembly, or (iii) the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the Senate, in his or her capacity as a legislative leader of the House of Representatives or Senate and not as a candidate for Representative or Senator.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-4) (from Ch. 46, par. 9-4)

Sec. 9-4. The statement of organization required by this Article to be filed in accordance with Section 9-3 shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made, and shall contain substantially the following:

STATEMENT OF ORGANIZATION

(a) name and address of the political committee:

.....
(b) scope, area of activity, party affiliation, candidate affiliation and his county of residence, and purposes of the political committee:

.....
.....
.....

(c) name, address, and position of each custodian of the committee's books and accounts:

.....

(d) name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any:

.....
.....

(e) a statement of what specific disposition of residual funds will be made in the event of the dissolution or termination of the committee:

.....

(f) a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee:

.....
.....

(g) the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization:

.....
 (h) any additional information required by Section 9-8.5 of the Election Code:

VERIFICATION:

"I declare that this statement of organization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of organization as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete statement is a business offense subject to a fine of at least \$1,001 and up to \$5,000."

.....
 (date of filing) (signature of person making the statement)

(Source: P.A. 93-615, eff. 11-19-03.)

(10 ILCS 5/9-7.5)

Sec. 9-7.5. Nonprofit organization registration and disclosure.

(a) Each nonprofit organization, except for a labor union, that accepts contributions, makes contributions, or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 (I) on behalf of or in opposition to public officials, candidates for public office, or a question of public policy or (II) for electioneering communications shall register with the State Board of Elections. The Board by rule shall prescribe the registration procedure and form. The registration form shall require the following information:

- (1) The registrant's name, address, and purpose.
- (2) The name, address, and position of each custodian of the registrant's financial books, accounts, and records.
- (3) The name, address, and position of each of the registrant's principal officers.

(b) Each nonprofit organization required to register under subsection (a) shall file contribution and expenditure reports with the Board. The Board by rule shall prescribe the form, which shall require the following information:

- (1) The organization's name, address, and purpose.
- (2) The amount of funds on hand at the beginning of the reporting period.
- (3) The full name and address of each person who has made one or more contributions to

or for the organization within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of the contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the organization has made a good faith effort to ascertain this information.

- (4) The total sum of individual contributions made to or for the organization during the reporting period and not reported in item (3).

(5) The name and address of each organization and political committee from which the reporting organization received, or to which that organization made, any transfer of funds in an aggregate amount or value in excess of \$150, together with the amounts and dates of the transfers.

- (6) The total sum of transfers made to or from the organization during the reporting period and not reported in item (5).

(7) Each loan to or from any person within the reporting period by or to the organization in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of the loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of the individual or, if the occupation and employer of the individual are unknown, a statement that the organization has made a good faith effort to ascertain this information.

(8) The total amount of proceeds received by the organization from (i) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fundraising event, (ii) mass collections made at those events, and (iii) sales of items such as buttons, badges, flags, emblems, hats, banners, literature, and similar materials.

(9) Each contribution, rebate, refund, or other receipt in excess of \$150 received by the organization not otherwise listed under items (3) through (8), and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the organization has made a good faith effort to ascertain this information.

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(10) The total sum of all receipts by or for the organization during the reporting period.

(11) The full name and mailing address of each person to whom expenditures have been made by the organization within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each expenditure, and the question of public policy on behalf of which the expenditure was made.

(12) The full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made and which is not otherwise reported, including the amount, date, and purpose of the expenditure.

(13) The total sum of expenditures made by the organization during the reporting period.

(14) The full name and mailing address of each person to whom the organization owes debts or obligations in excess of \$150 and the amount of the debts or obligations.

The State Board by rule shall define a "good faith effort".

(c) The reports required under subsection (b) shall be filed at the same times and for the same reporting periods as reports of campaign contributions ~~and semi-annual reports of campaign contributions~~ and expenditures required by this Article of political committees. The reports required under subsection (b) shall be available for public inspection and copying in the same manner as reports filed by political committees. The Board may charge a fee that covers the costs of copying and distribution, if any.

(d) An organization required to file reports under subsection (b) shall include a statement on all literature and advertisements soliciting funds stating the following:

"A copy of our report filed with the State Board of Elections is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois".

(Source: P.A. 94-645, eff. 8-22-05.)

(10 ILCS 5/9-8.5 new)

Sec. 9-8.5. Limits on contributions received by political committees.

(a) Definitions. For the purposes of this Section:

"Association" means any group, club, meeting, collective, membership organization, collection of persons, any entity organized under Section 501 or 527 of the Internal Revenue Code, or any other entity other than a natural person, except that an association does not include a political committee organized under this Article or a labor organization as defined in this Section.

"Constituent services committee" means a political committee organized by an elected public official to accept contributions and make expenditures solely to defray the costs related to constituent services and upkeep of that official's office.

"Corporation" includes a corporation, limited liability company, partnership, professional practice, cooperative, or sole proprietorship, whether organized on a for-profit or non-profit basis organized under the laws of Illinois or another state. A corporation does not include (i) a labor organization as defined in this Section or (ii) an incorporated political committee registered pursuant to this Article or corresponding federal laws or laws of another state.

"Labor organization" means any organization of any kind or any agency or employee representation committee or plan in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"Multi-candidate committee" means a political committee organized by a public official, candidate, or political party to support the nomination, election, or retention of public officials or candidates for multiple, specified offices. "Multi-candidate committee" also includes a political party committee.

"Non-candidate committee" means a political committee organized by a person, persons, or any entity other than a public official, candidate, or political party to support or oppose causes, ideas, or interests but not organized to support specific candidates for nomination, election, or retention.

"Political party committee" means a political committee organized to support candidates of a specific political party seeking elective office within a specific jurisdiction.

"Single-candidate committee" means a political committee organized to support or oppose the election of a single, specific candidate or public official or to support or oppose one or more questions of public policy.

(b) Single-candidate committee. Beginning on January 1, 2011, no public official or candidate for public office may establish or maintain more than one political committee for each office that public official or candidate occupies or is seeking. The statement of organization must identify the public official or candidate, the office that public official or candidate occupies or seeks to occupy, and a statement that the political committee is the only single-candidate committee designated by the public

official or candidate to receive contributions and make expenditures on behalf of the public official or candidate for such office.

(1) Each calendar year, a single-candidate committee may not accept contributions with an aggregate value over \$5,000 from a natural person.

(2) Each calendar year, a single-candidate committee may not accept contributions with an aggregate value over \$10,000 from a corporation, labor organization, or association.

(3) Each calendar year, a single-candidate committee may not accept transfers of funds with an aggregate value over \$90,000 from a political committee.

(c) Multi-candidate committee. Beginning on January 1, 2011, a public official, candidate for public office, or a political party may establish or maintain one political committee to support the election of public officials or candidates for multiple, specified offices. The statement of organization must identify the public official, candidate, or political party forming the committee, the public officials, candidates, or political party the committee is organized to support, and a statement that the political committee is the only multi-candidate committee designated by the public official, candidate, or political party to receive contributions and make expenditures on behalf of the public official, candidate, or political party.

(1) Each calendar year, a multi-candidate committee may not accept contributions with an aggregate value over \$10,000 from a natural person.

(2) Each calendar year, a multi-candidate committee may not accept contributions with an aggregate value over \$20,000 from a corporation, labor organization, or association.

(3) Each calendar year, a multi-candidate committee may not accept transfers of funds from a political committee in excess of \$90,000.

(d) Non-candidate committee. Beginning on January 1, 2011, a corporation, association, labor organization, or other person may establish or maintain one political committee to support or oppose a cause or interests, but not organized to support specific candidates for nomination, election, or retention. The statement of organization must identify the entity forming the committee, the cause or interest supported or opposed, and a statement that the political committee is the only non-candidate committee designated to receive contributions and make expenditures on behalf of the entity.

(1) Each calendar year, a non-candidate committee may not accept contributions with an aggregate value over \$10,000 from a natural person.

(2) Each calendar year, a non-candidate committee may not accept contributions with an aggregate value over \$20,000 from a corporation, labor organization, or association.

(3) Each calendar year, a non-candidate committee may not accept transfers of funds from a political committee in excess of \$90,000.

(e) Constituent services committee. Beginning on January 1, 2011, a public official may establish and maintain one constituent services committee to accept contributions and make expenditures for costs related to constituent services and the maintenance of the official's public office. Funds shall not be used for election-related expenses, personal items, or to make contributions or transfers of funds to any political committee. The statement of organization must identify the public official or candidate forming the committee, the designated purposes for which funds may be expended, and a statement that the constituent services committee is the only constituent services committee designated by the public official. Each calendar year, a constituent services committee may not accept contributions with an aggregate value of more than \$5,000 from any single source.

(f) Self-funding candidates. If a public official, a candidate, or the public official's or candidate's immediate family contributes or loans to the public official's or candidate's political committee or to other political committees that transfer funds to the public official's or candidate's political committee or makes independent expenditures for the benefit of the public official's or candidate's campaign during the 12 months prior to an election in an aggregate amount of more than (i) \$250,000 for statewide office or (ii) \$100,000 for all other elective offices, then the public official or candidate shall file with the State Board of Elections, within one day, a Notification of Self-funding that shall detail each contribution or loan made by the public official, the candidate, or the public official's or candidate's immediate family. Within 2 business days after the filing of a Notification of Self-funding, the notification shall be posted on the Board's website and the Board shall give official notice of the filing to each candidate for the same office as the public official or candidate making the filing, including the public official or candidate filing the Notification of Self-funding. Upon receiving notice from the Board, all candidates for that office, including the public official or candidate who filed a Notification of Self-funding, shall be permitted to accept contributions in excess of any contribution limits imposed by this subsection 9-8.5(b). For the purposes of this subsection, "statewide office" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. For the purposes of this subsection, "immediate family" means the spouse, parent, or child of a public official or candidate.

(g) Joint fundraising. Nothing in this Section shall prohibit political committees from dividing the proceeds of joint fundraising efforts; provided that no political committee may receive more than the limit from any one contributor and all contributions shall be reported.

(h) Contributions or transfers in violation of this Section. A political committee that receives a contribution or transfer in violation of this Section shall dispose of the contribution or transfer by returning the contribution or transfer, or an amount equal to the contribution or transfer, to the contributor or transferor or donating the contribution or transfer, or an amount equal to the contribution or transfer, to a charity. A contribution or transfer received in violation of this Section that is not disposed of as provided in this subsection within 30 days after its receipt shall escheat to the General Revenue Fund.

(i) On January 1 of each odd-numbered year, the State Board of Elections shall adjust the amount of the contribution and transfer limitations established in this Section for inflation as determined by the Consumer Price Index for All Urban Consumers as issued by the United States Department of Labor and rounded to the nearest \$100. The State Board shall publish this information on its official web site.

(j) Nothing in this Section shall limit the amounts that may be transferred between a State and federal committee of a State central committee of a political party.

(10 ILCS 5/9-8.6 new)

Sec. 9-8.6. Independent expenditures.

(a) "Independent expenditure" means an expenditure (i) that is made by a natural person for the purpose of making electioneering communications or of expressly advocating for or against the nomination, election, retention, or defeat of a clearly identifiable public official or candidate and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign. An independent expenditure is not considered a contribution to a political committee. An expenditure made by a natural person in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's single-candidate committee, or the agent or agents of the public official, candidate, or political committee or campaign shall be considered a contribution to the public official's or candidate's single-candidate committee.

(b) A person that makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that person supporting or opposing that public official or candidate during any 12-month period, equals an aggregate value of at least \$3,000 must file a written disclosure with that public official or candidate and the State Board of Elections within 2 business days after making any expenditure that results in the person meeting or exceeding the \$3,000 threshold. Each disclosure must identify the person, the public official or candidate supported or opposed, the date, amount, and nature of each independent expenditure, and, in the case of a person, his or her occupation and employer.

Any person that makes independent expenditures in an aggregate amount exceeding \$3,000 during a general primary period or general election period shall have a continuing duty to disclose each time the person has an unreported independent expenditure or expenditures supporting or opposing a public official or candidate that exceed an aggregate value of \$20,000. In this event, the person shall file a written disclosure with the public official or candidate, any other candidate seeking the office, and the State Board within 2 business days after making any expenditure that results in the person meeting or exceeding the \$20,000 in aggregate. Each disclosure must identify the person, his or her occupation, the public official or candidate, and the date, amount, and nature of each independent expenditure.

(c) Any entity other than a natural person that makes expenditures of any kind in an aggregate amount exceeding \$3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee in accordance with this Article.

(10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

Sec. 9-10. Financial reports.

(a) The treasurer of every state political committee and the treasurer of every local political committee shall file with the Board, and the treasurer of every local political committee shall file with the county clerk, reports of campaign contributions, and quarterly ~~semi-annual~~ reports of campaign contributions and expenditures on forms to be prescribed or approved by the Board. The treasurer of every political committee that acts as both a state political committee and a local political committee shall file a copy of each report with the State Board of Elections and the county clerk. Entities subject to Section 9-7.5 shall file reports required by that Section at times provided in this Section and are subject to the penalties provided in this Section.

(b) ~~This subsection does not apply with respect to general primary elections. Reports of campaign~~

contributions shall be filed no later than the 15th day next preceding each election in connection with which the political committee has accepted or is accepting contributions or has made or is making expenditures. Such reports shall be complete as of the 30th day next preceding each election. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. However, a continuing political committee that does not make an expenditure or expenditures in an aggregate amount of more than \$500 on behalf of or in opposition to any (i) candidate or candidates, (ii) public question or questions, or (iii) candidate or candidates and public question or questions on the ballot at an election shall not be required to file the reports prescribed in this subsection ~~(c) (b) and subsection (b-5)~~ but may file in lieu thereof a Statement of Nonparticipation in the Election with the Board or the Board and the county clerk; except that if the political committee, by the terms of its statement of organization filed in accordance with this Article, is organized to support or oppose a candidate or public question on the ballot at the next election or primary, that committee must file reports required by this subsection ~~(c) (b) and by subsection (b-5)~~. If a political committee is not organized to support or oppose a candidate or public question on the ballot at the next election or primary and the political committee does not file a Statement of Nonparticipation, then the committee will be deemed to have filed a Statement of Nonparticipation. If such political committee participates in that election then the committee will be considered in violation of this subsection as if it had filed a Statement of Nonparticipation, unless the political committee files the required reports within 5 days after the political committee makes such contribution or within 24 hours in the period 5 days prior to the election.

~~(c) A report of (b-5) Notwithstanding the provisions of subsection (b) and Section 1.25 of the Statute on Statutes, any contribution of more than \$500 received (i) with respect to elections other than the general primary election, in the 60 days interim between the last date of the period covered by the last report filed under subsection (b) prior to the election and the date of the election or (ii) with respect to general primary elections, in the period beginning January 1 of the year of the general primary election and prior to the date of the general primary election shall be filed electronically with and must actually be received by the State Board of Elections within 2 business days after receipt of such contribution.~~

~~(d) A single-candidate or multi-candidate committee organized by or in support of a member of the General Assembly also must file the reports required by subsection (c) during the period beginning May 1 through the adjournment of the spring legislative session. A single-candidate or multi-candidate committee organized by or in support of the Governor must file the reports required by subsection (c) during the 90 days following the adjournment of the spring legislative session.~~

~~(e) An expenditure of more than \$500 made by a multi-candidate committee for the benefit of a public official or candidate for an office the multi-candidate committee is organized to support made in the 60 days prior to the election shall be electronically reported to the State Board of Elections within 5 business days after an expenditure was made by the multi-candidate committee. A continuing political committee that does not support or oppose a candidate or public question on the ballot at a general primary election and does not make expenditures in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at the general primary election shall not be required to file the report prescribed in this subsection unless the committee makes an expenditure in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at the general primary election. The committee shall timely file the report required under this subsection beginning with the date the expenditure that triggered participation was made. The State Board shall allow filings of reports of contributions of more than \$500 under this subsection (b-5) by political committees that are not required to file electronically to be made by facsimile transmission.~~

~~(f) For the purpose of this Section subsection, a contribution is considered received on the date the public official, candidate, or treasurer of the political committee (or equivalent person in the case of a reporting entity other than a political committee) has actual personal physical possession of actually receives it or, in the case of goods or services, 2 business days after the date the public official, candidate, or treasurer of the committee, or other reporting entity has actual personal physical possession of receives the certification required under subsection (b) of Section 9-6.~~

~~(g) Failure to report each contribution is a separate violation of this subsection. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93rd General Assembly, the Board may impose fines for willful or wanton violations of this subsection not to exceed~~

~~150%~~ ~~100%~~ of the total amount of the contributions that were untimely reported, but in no case when a fine is imposed shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

~~(1) the amount by which a contribution exceeded the threshold;~~

~~(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;~~

(2) the number of days the contribution was reported late; and

(3) past violations of Sections 9-3 and 9-10 of this Article by the committee.

~~(h) The Board may impose fines for negligent, inadvertent, or technical violations of this subsection not to exceed 50% of the total amount of the contributions that were untimely reported, or the Board may decline to impose a fine for such violations. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:~~

~~(1) whether the violation was negligent, inadvertent, or technical in nature;~~

~~(2) whether the contribution at issue was disclosed but a violation arose because the disclosure was incorrectly characterized or reported inadvertently by another related committee;~~

~~(3) whether the violation arose from an apparent discrepancy between the date of the contribution reported by the transferring committee and the date reported by the receiving committee, if there appears to be no attempt to delay disclosure;~~

~~(4) whether the disclosure was triggered by an aggregation of contributions or transfers, the unreported contributions or transfers are less than the threshold triggering disclosure requirements, and there appears to be no attempt to delay disclosure;~~

~~(5) the amount by which a contribution exceeded the threshold;~~

~~(6) the number of days the contribution was reported late; and~~

~~(7) past violations of Sections 9-3 and 9-10 of this Article by the committee.~~

~~(i) (e) In addition to such reports the treasurer of every political committee shall file quarterly semi-annual reports of campaign contributions and expenditures. The reports shall cover the period January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year. Reports shall be filed no later than 20 days after the close of the reporting period, no later than July 20th, covering the period from January 1st through June 30th immediately preceding, and no later than January 20th, covering the period from July 1st through December 31st of the preceding calendar year. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. In addition to any fine imposed under this subsection, the State Board of Elections may order any political committee that has failed to file 2 successive quarterly reports within 30 days after the date the report was due to conduct an audit of all financial records required to be maintained by the committee at the time the audit is ordered. The committee ordered to conduct an audit shall deliver a certified copy of the audit to the Board within 90 calendar days after the date the audit was ordered. If the committee fails to deliver a certified audit in the time required, the Board shall assess a civil penalty of \$250 per day that the audit is late, not to exceed \$5,000.~~

~~(j) (e-5) A political committee that acts as either (i) a State and local political committee or (ii) a local political committee and that files reports electronically under Section 9-28 is not required to file copies of the reports with the appropriate county clerk if the county clerk has a system that permits access to, and duplication of, reports that are filed with the State Board of Elections. A State and local political committee or a local political committee shall file with the county clerk a copy of its statement of organization pursuant to Section 9-3.~~

~~(k) (4) A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.~~

(Source: P.A. 94-645, eff. 8-22-05; 95-6, eff. 6-20-07; 95-957, eff. 1-1-09.)

(10 ILCS 5/9-13) (from Ch. 46, par. 9-13)

Sec. 9-13. Each quarterly ~~semi-annual~~ report of campaign contributions and expenditures under Section 9-10 shall disclose-

- (1) the name and address of the political committee;
- (2) (Blank);
- (3) the amount of funds on hand at the beginning of the reporting period;
- (4) the full name and mailing address of each person who has made one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);
- (6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;
- (7) the total sum of transfers made to or from such committee during the reporting period and not reported under item (6);
- (8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (11) the total sum of all receipts by or for such committee or candidate during the reporting period;
- (12) the full name and mailing address of each person to whom expenditures have been made by such committee or candidate within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;
- (13) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;
- (14) the total sum of expenditures made by such committee during the reporting period;
- (15) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations.

The Board shall by rule define a "good faith effort".
 (Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-14) (from Ch. 46, par. 9-14)

Sec. 9-14. Each ~~quarterly~~ ~~semi-annual~~ report of campaign contributions and expenditures required by Section 9-10 of this Article to be filed with the Board or the Board and the county clerk shall be verified, dated, and signed by either the treasurer of the political committee making the report or the candidate on whose behalf the report is made, and shall contain substantially the following:

~~QUARTERLY~~ ~~SEMI-ANNUAL~~ REPORT OF CAMPAIGN
 CONTRIBUTIONS AND EXPENDITURES

- (1) name and address of the political committee:

- (2) the date of the beginning of the reporting period, and the amount of funds on hand at the beginning of the reporting period;

- (3) the full name and mailing address of each person who has made one or more contributions to or for the committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if a contributor is an individual who contributed

more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	occupation	employer
....
....
....
....
....
....

(4) the total sum of individual contributions made to or for the committee during the reporting period and not reported under item--(3):

(5) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in an aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers:

name	address	amount	date
.....
.....
.....

(6) the total sum of transfers made to or from such committee during the reporting period and not reported under item (5);

(7) each loan to or from any person within the reporting period by or to the committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of each person making the loan, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	endorsers	occupation	employer
....
....
....

(8) the total amount of proceeds received by the committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials:

- (a).....
- (b).....
- (c).....

(9) each contribution, rebate, refund, or other receipt in excess of \$150 received by the committee not otherwise listed under items (3) through (8), and if a contributor is an individual who contributed more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	endorsers	occupation	employer
....
....
....

(10) the total sum of all receipts by or for the committee during the reporting period:

(11) the full name and mailing address of each person to whom expenditures have been made by the committee within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure, and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf the expenditure was made:

name	address	amount	date	purpose	beneficiary
.....
.....
.....
.....
.....

(12) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure:

name	address	amount	date	purpose
.....
.....
.....

(13) the total sum of expenditures made by the committee during the reporting period;

(14) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations:

.....

VERIFICATION:

"I declare that this ~~quarterly~~ ~~semi-annual~~ report of campaign contributions and expenditures (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete report as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete report is a business offense subject to a fine of up to \$5,000."

..... (date of filing) (signature of person making the report)

(Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)
(10 ILCS 5/9-21) (from Ch. 46, par. 9-21)

Sec. 9-21. Upon receipt of a ~~such~~ complaint ~~as provided in Section 9-20~~, the Board shall hold a closed preliminary hearing to determine whether or not the complaint appears to have been filed on justifiable grounds. Such closed preliminary hearing shall be conducted as soon as practicable after affording reasonable notice, a copy of the complaint, and an opportunity to testify at such hearing to both the person making the complaint and the person against whom the complaint is directed. If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing.

Whenever ~~in the judgment of~~ the Board ~~in an open meeting determines~~, after affording due notice and an opportunity for a public hearing, any person has engaged or is about to engage in an act or practice which constitutes or will constitute a violation of any provision of this Article or any regulation or order issued thereunder, the Board shall issue an order directing such person to take such action as the Board determines may be necessary in the public interest to correct the violation. In addition, if the act or practice engaged in consists of the failure to file any required report within the time prescribed by this Article, the Board, as part of its order, shall further provide that if, within the 12-month period following the issuance of the order, such person fails to file within the time prescribed by this Article any subsequent report as may be required, such person may be subject to a civil penalty pursuant to Section 9-23. The Board shall render its final judgment within 60 days of the date the complaint is filed; except that during the 60 days preceding the date of the election in reference to which the complaint is filed, the Board shall render its final judgment within 7 days of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgment before the date of such election, if possible.

At any time prior to the issuance of the Board's final judgment, the parties may dispose of the complaint by a written stipulation, agreed settlement or consent order. Any such stipulation, settlement or order shall, however, be submitted in writing to the Board and shall become effective only if approved by the Board ~~in an open meeting~~. If the act or practice complained of consists of the failure to file any required report within the time prescribed by this Article, such stipulation, settlement or order may provide that if, within the 12-month period following the approval of such stipulation, agreement or order, the person complained of fails to file within the time prescribed by this Article any subsequent reports as may be required, such person may be subject to a civil penalty pursuant to Section 9-23.

Any person filing a complaint pursuant to Section 9-20 may, upon written notice to the other parties and to the Board, voluntarily withdraw the complaint at any time prior to the issuance of the Board's final determination.

(Source: P.A. 93-574, eff. 8-21-03.)
(10 ILCS 5/9-23) (from Ch. 46, par. 9-23)

Sec. 9-23. Whenever the Board, pursuant to Section 9-21, has issued an order, or has approved a written stipulation, agreed settlement or consent order, directing a person determined by the Board to be

in violation of any provision of this Article or any regulation adopted thereunder, to cease or correct such violation or otherwise comply with this Article and such person fails or refuses to comply with such order, stipulation, settlement or consent order within the time specified by the Board, the Board in an open meeting, after affording notice and an opportunity for a public hearing, may impose a civil penalty on such person in an amount not to exceed \$5,000; except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. For the purpose of this Section, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

Civil penalties imposed on any such person by the Board shall be enforceable in the Circuit Court. The Board shall petition the Court for an order to enforce collection of the penalty and, if the Court finds it has jurisdiction over the person against whom the penalty was imposed, the Court shall issue the appropriate order. Any civil penalties collected by the Court shall be forwarded to the State Treasurer.

In addition to or in lieu of the imposition of a civil penalty, the board may report such violation and the failure or refusal to comply with the order of the Board to the Attorney General and the appropriate State's Attorney.

(Source: P.A. 93-615, eff. 11-19-03.)

(10 ILCS 5/9-23.5 new)

Sec. 9-23.5. Public database of founded complaints. The State Board of Elections shall establish and maintain on its official website a searchable database, freely accessible to the public, of each complaint filed with the Board under this Article where Board action was taken, including all board actions and penalties imposed, if any. The Board must update the database within 5 business days after an action taken or a penalty imposed to include that complaint, action, or penalty in the database.

(10 ILCS 5/9-28)

Sec. 9-28. Electronic filing and availability. The Board shall by rule provide for the electronic filing of expenditure and contribution reports as follows:

Beginning July 1, 1999, or as soon thereafter as the Board has provided adequate software to the political committee, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$25,000 or more, (ii) made aggregate expenditures of \$25,000 or more, or (iii) received loans of an aggregate of \$25,000 or more.

Beginning July 1, 2003, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 or more, (ii) made aggregate expenditures of \$10,000 or more, or (iii) received loans of an aggregate of \$10,000 or more.

Notwithstanding any other provision of this Section, a political committee filing a report under subsections (c), (d), and (e) of Section 9-10 must file that report electronically.

The Board may provide by rule for the optional electronic filing of expenditure and contribution reports for all other political committees. The Board shall promptly make all reports filed under this Article by all political committees publicly available by means of a searchable database that is accessible through the World Wide Web.

The Board shall provide all software necessary to comply with this Section to candidates, public officials, political committees, and election authorities.

The Board shall implement a plan to provide computer access and assistance to candidates, public officials, political committees, and election authorities with respect to electronic filings required under this Article.

For the purposes of this Section, "political committees" includes entities required to report to the Board under Section 9-7.5.

(Source: P.A. 90-495, eff. 8-18-97; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-28.5 new)

Sec. 9-28.5. Injunctive relief for electioneering communications.

(a) Whenever the Attorney General, or a State's Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an action in the name of the People of the State of Illinois or, in the case of a State's Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(b) Any person who believes any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as

defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit court against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(10 ILCS 5/9-30)

Sec. 9-30. Ballot forfeiture. The State Board of Elections shall not certify the ~~The~~ name of any a person who has not paid a civil penalty imposed against his or her political committee ~~him or her~~ under this Article to ~~shall not~~ appear upon any ballot for any office in any election while the penalty is unpaid.

The State Board of Elections shall generate a list of all candidates whose political committees have not paid any civil penalty assessed against them under this Article. Such list shall be transmitted to any election authority whose duty it is to place the name of any such candidate on the ballot. The election authority shall not place upon the ballot the name of any candidate appearing on this list for any office in any election while the penalty is unpaid.

(Source: P.A. 93-615, eff. 11-19-03.)

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect January 1, 2011, except that this Section and the changes to Sections 7-8, 9-1.14, 9-28.5, and 9-30 of the Election Code take effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 7

AMENDMENT NO. 2. Amend House Bill 7, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, line 7, by replacing "and 9-28.5" with "9-28.5, and 9-40"; and

on page 68, immediately below line 12, by inserting the following:

"(10 ILCS 5/9-40 new)

Sec. 9-40. Public Financing of Judicial Elections Task Force.

(a) There is hereby established a Public Financing of Judicial Elections Task Force. The Task Force shall conduct meetings and take testimony to assess the need for developing a system of public financing for judicial elections.

(b) The Task Force shall consist of all of the following voting members:

(1) Four persons appointed by the Governor, with no more than 2 from the same political party.

(2) Four members of the judiciary appointed by the Illinois Supreme Court.

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

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

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

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

(7) One member appointed by State Board of Elections.

(c) In the event of a vacancy, the appointment to fill the vacancy shall be made by the appointing authority that made the original appointment. The Task Force may begin to conduct business upon the appointment of a majority of the voting members.

(d) The State Board of Elections shall be the agency responsible for providing staff and administrative support to the Task Force. Members of the Task Force shall receive no compensation for their participation, but may be reimbursed for expenses in connection with their participation, if funds are available.

(e) The Task Force shall submit a report to the Governor, General Assembly, and Illinois Supreme Court by January 1, 2012. The State Board of Elections shall make the report available on its website.

(f) The Task Force is abolished on January 10, 2012, and this Section is repealed on January 10, 2012."; and

on page 68, line 17, by replacing "and 9-30" with "9-30, and 9-40".

The motion prevailed.

[May 28, 2009]

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was held in the Committee on Assignments.

Senate Floor Amendment Nos. 4, 5, 6 and 7 were referred to the Committee on Assignments earlier today.

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

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Harmon, **House Bill No. 7**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 36; NAYS 22; Present 1.

The following voted in the affirmative:

Bond	Haine	Link	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Hendon	Martinez	Trotter
Crotty	Holmes	Meeks	Viverito
DeLeo	Hunter	Muñoz	Wilhelmi
Delgado	Hutchinson	Noland	Mr. President
Demuzio	Jones, E.	Raoul	
Forby	Koehler	Sandoval	
Frerichs	Kotowski	Schoenberg	
Garrett	Lightford	Silverstein	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Righter
Bivins	Duffy	McCarter	Risinger
Bomke	Hultgren	Millner	Rutherford
Brady	Jacobs	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Laufen	Radogno	

The following voted present:

Dillard

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

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

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 2106**, 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 32; NAYS 18.

The following voted in the affirmative:

[May 28, 2009]

Althoff	Holmes	Maloney	Sullivan
Bomke	Hunter	Martinez	Trotter
Clayborne	Hutchinson	Meeks	Viverito
Collins	Jacobs	Muñoz	Wilhelmi
Crotty	Jones, E.	Noland	Mr. President
DeLeo	Koehler	Raoul	
Delgado	Kotowski	Sandoval	
Harmon	Lightford	Silverstein	
Hendon	Link	Steans	

The following voted in the negative:

Bivins	Duffy	Luechtefeld	Righter
Bond	Haine	McCarter	Rutherford
Brady	Hultgren	Murphy	Syverson
Burzynski	Jones, J.	Pankau	
Cronin	Laufen	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.

HOUSE BILL RECALLED

On motion of Senator Forby, **House Bill No. 314** 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. 1 HOUSE BILL 314

AMENDMENT NO. 1. Amend House Bill 314 by deleting everything after the enacting clause and inserting in lieu thereof with the following:

“Section 5. Public Act 95-734, as vetoed, reduced, and restored, is amended by changing Section 10 of Article 7 as follows:

(P.A. 95-734, Art. 7, Sec. 10)

Sec. 10. The following amounts or so much thereof as may be necessary, which shall be used by the Illinois State Board of Education exclusively for the foregoing purposes and not, under any circumstances, for personal services expenditures or other operational or administrative costs, are appropriated to the Illinois State Board of Education for the fiscal year beginning July 1, 2008:

From the General Revenue Fund:

For Blind/Dyslexic Persons	1,218,800
For Charter Schools – Transition Impact Aid	3,421,500
For costs associated with the Chicago Aerospace Initiative.....	920,000
For Disabled Student Personnel Reimbursement.....	426,100,000
For Disabled Student Transportation Reimbursement.....	383,300,000
For Disabled Student Tuition, Private Tuition	151,600,000
For District Consolidation Costs/ Supplemental Payments to School Districts, 18-8.2, 18-18.3, 18-8.5, 18-8.05(l) of the School Code.....	7,850,000

For Fast Growth Schools, 18-8.10 of the School Code	7,500,000
For Funding for Children Requiring Special Education, 14-7.02b of the School Code	331,051,100
For Funding for Children Requiring <u>Special Education-Hold Harmless</u> <u>14-7.02b of the School Code</u>	17,553,676
For Gifted Education	7,000,000
For Healthy Kids/Healthy Minds/ Expanded Vision per 34-18.32 of the School Code.....	3,000,000
For a Healthy Kids/Healthy Minds/ Expanded Vision Program in Cicero & Berwyn.....	1,000,000
For After School Matters	500,000
For Arts and Foreign Language.....	4,000,000
For Agudath Israel of Illinois for grants For School Transportation	1,200,000
For the Illinois Governmental Internship Program	129,900
For Jobs for Illinois Grads	4,000,000
For the Metro East Consortium for Child Advocacy	217,100
For Parental Guardian Programs/ Transportation Reimbursement.....	11,954,700
For the Philip J. Rock Center and School	3,577,800
For Homeless Education.....	3,000,000
For Reimbursement for the Free Breakfast/ Lunch Program	26,300,000
For Rural Technology Initiatives.....	4,000,000
For the School Breakfast Incentive Program.....	723,500
For Teachers and Administrators Mentoring Program	14,000,000
For Principal Mentoring Program	3,100,000
For Chicago Principals and Administrators Association.....	1,000,000
For Summer School Payments, 18-4.3 of the School Code	11,000,000
For Targeted Interventions	4,000,000
For Tax-Equivalent Grants, 18-4.4 of the School Code.....	222,600
For Textbook Loans, 18-17 of the School Code.....	42,826,500
For Transitional Assistance	19,209,924 36,763,600
For Transition of Minority Students.....	578,800
For Transportation-Regular/Vocational Common School Transportation Reimbursement, 29-5 of the School Code	339,500,000
For Visually Impaired/Educational Materials Coordinating Unit, 14-11.01 of the School Code	2,121,000
For Regular Education Reimbursement Per 18-3 of the School Code.....	11,600,000
For Special Education Reimbursement Per 14-7.03 of the School Code	101,800,000
For all costs associated with Alternative Education/Regional Safe Schools	18,535,500
For Truant Alternative and Optional	

Education Program	20,078,100
For costs associated with Teach for America.....	450,000
For grants to Local Education Agencies to conduct Agriculture Education Programs	3,381,200
For Mentoring and Afterschool Programs.....	9,700,000
Total	\$2,004,221,700
From the Education Assistance Fund:	
For Career and Technical Education	38,562,100
For General State Aid	1,123,119,900
For General State Aid – Hold Harmless.....	26,106,400
For the Reading Improvement Block Grant	76,139,800
For the School Safety and Educational Improvement Block Grant	74,841,000
For the Summer Bridges Program.....	22,238,100
For National Board Certified Teachers	11,485,000
For the Illinois Teacher of the Year	135,000
Total	\$1,372,627,300
From the Common School Fund:	
For General State Aid	3,467,140,000
For Regional Superintendents’ and Assistant’ Compensation	9,100,000
Total	\$3,476,240,000
From the General Revenue Fund	
For Regional Superintendent’s Services	6,318,000
For Regional Superintendents Services – Bus Driver Training.....	70,000
For Regional Superintendents Services – Supervisory Expenses.....	102,000
Total	\$6,490,000
From the School District Emergency Financial Assistance Fund:	
For Emergency Financial Assistance, 1B-8 of the School Code	1,000,000
From the Drivers Education Fund:	
For Drivers Education.....	17,929,600
From the Charter Schools Revolving Loan Fund:	
For Charter Schools Loans	20,000
From the School Technology Revolving Loan Fund:	
For School Technology Loans, 2-3.117a of the School Code	5,000,000
From the Temporary Relocation Expenses Revolving Grant Fund:	
For Temporary Relocation Expenses, 2-3.77 of the School Code	1,400,000
From the State Board of Education Federal Agency Services Fund:	
For Learn and Serve America.....	2,500,000
From the State Board of Education Federal Agency Services Fund:	
For Refugee Services.....	2,000,000
From the State Board of Education Federal Department of Agriculture Fund:	
For Child Nutrition	525,000,000
From the State Board of Education Federal Department of Education Fund:	
For Title I	675,000,000
For Title I, Reading First	60,000,000
For Title II, Teacher/Principal Training.....	135,000,000

For Title III, English Language Acquisition.....	40,000,000
For Title IV, 21st Century/Community Service Programs.....	55,000,000
For Title IV, Safe and Drug Free Schools.....	15,000,000
For Title V, Innovation Programs.....	8,000,000
For Title VI, Rural and Low Income Students.....	1,500,000
For Title X, Homeless Education.....	3,250,000
For Enhancing Education through Technology.....	20,000,000
For Individuals with Disabilities Act, Deaf/Blind.....	450,000
For Individuals with Disabilities Act, IDEA.....	570,000,000
For Individuals with Disabilities Act, Improvement Program.....	2,500,000
For Individuals with Disabilities Act, Model Outreach Program Grants.....	400,000
For Individuals with Disabilities Act, Pre-School.....	25,000,000
For Grants for Vocational Education – Basic.....	55,000,000
For Grants for Vocational Education – Technical Preparation.....	5,000,000
For Charter Schools.....	6,000,000
For Transition to Teaching.....	1,000,000
For Advanced Placement Fee.....	2,000,000
For Math/Science Partnerships.....	9,000,000
For Integration of Mental Health.....	400,000
For ONPAR.....	2,000,000
For Special Federal Congressional Projects.....	<u>5,000,000</u>
Total	\$2,251,349,60

Section 99. Effective date. This Act takes effect immediately.”.

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Forby, **House Bill No. 314**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein

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

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

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

At the hour of 9:16 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, May 29, 2009, at 9:00 o'clock a.m.