SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SEVENTH GENERAL ASSEMBLY

22ND LEGISLATIVE DAY

TUESDAY, MARCH 29, 2011

12:09 O'CLOCK P.M.

NO. 22
[March 29, 2011]

SENATE
Daily Journal Index
22nd Legislative Day

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The Senate met pursuant to adjournment.
Senator James F. Clayborne, Belleville, Illinois, presiding.
Prayer by Senator Crotty.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journals of Thursday, March 17, 2011 and Wednesday, March 23, 2011, be postponed, pending arrival of the printed Journals.
The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

Updated 2010 Annual Report: At the Crossroads of Change, submitted by the Illinois Tollway.

Report Pursuant to Public Act 87-522 (Flex time), submitted by the Civil Service Commission.

Report Pursuant to Public Act 87-522 (Flex time), submitted by the Illinois Guardianship and Advocacy Commission.

FY 2012 Economic Forecast and Revenue Estimate and FY 2011 Revenue Update, submitted by the Commission on Government Forecasting and Accountability.

Independent Living 2010 Annual Report, submitted by the Department of Human Services.

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

LEGISLATIVE MEASURES FILED

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

Senate Committee Amendment No. 3 to Senate Bill 133
Senate Committee Amendment No. 1 to Senate Bill 1566
Senate Committee Amendment No. 1 to Senate Bill 1834
Senate Committee Amendment No. 2 to Senate Bill 2170
Senate Committee Amendment No. 1 to Senate Bill 2275

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. 1 to Senate Bill 398
Senate Floor Amendment No. 1 to Senate Bill 669
Senate Floor Amendment No. 1 to Senate Bill 956
Senate Floor Amendment No. 3 to Senate Bill 1259
Senate Floor Amendment No. 3 to Senate Bill 1543
Senate Floor Amendment No. 1 to Senate Bill 1602
Senate Floor Amendment No. 3 to Senate Bill 1644
Senate Floor Amendment No. 1 to Senate Bill 1686
Senate Floor Amendment No. 2 to Senate Bill 1701
Senate Floor Amendment No. 2 to Senate Bill 1702
Senate Floor Amendment No. 2 to Senate Bill 1798
Senate Floor Amendment No. 3 to Senate Bill 1821
Senate Floor Amendment No. 1 to Senate Bill 1992
Senate Floor Amendment No. 2 to Senate Bill 2010

Senate Floor Amendment No. 2 to Senate Bill 2015
Senate Floor Amendment No. 2 to Senate Bill 2064
Senate Floor Amendment No. 1 to Senate Bill 2225

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 Joint Resolution 3

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. 1 to House Bill 1030

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706
217-782-2728

March 29, 2011

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-5(c), I hereby appoint Senator Terry Link to temporarily replace Senator Kimberly Lightford as a member of the Senate Committee on Assignments. This appointment will automatically expire upon adjournment of the Senate Committee on Assignments.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706
217-782-2728

March 29, 2011

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Terry Link to temporarily replace Senator Ira Silverstein as a member of the Senate Executive Committee. This appointment will automatically expire upon adjournment of the Senate Executive Committee.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

COMMUNICATION FROM THE MINORITY LEADER

CHRISTINE RADOGNO
SENATE REPUBLICAN LEADER · 41st DISTRICT

March 29, 2011

Ms. Jillayne Rock
Secretary of the Senate
401 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 3-5(c), I hereby appoint Senator Matt Murphy to temporarily replace Senator Kirk Dillard as a member of the Senate Committee on Assignments. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Committee on Assignments.

Sincerely,
s/Christine Radogno
Christine Radogno
Senate Republican Leader

cc: Senate President John Cullerton
Assistant Secretary of the Senate Scott Kaiser

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 134
Offered by Senator Link and all Senators:
Mourns the death of Joyce E. Johnson of Waukegan.

SENATE RESOLUTION NO. 135
Offered by Senator Radogno and all Senators:
Mourns the death of Patricia Feigh, nee Craig, of Downers Grove.

SENATE RESOLUTION NO. 136
Offered by Senator Haine and all Senators:
Mourns the death of Robert H. Schoeneweis of Wood River.

SENATE RESOLUTION NO. 137
Offered by Senator Haine and all Senators:
Mourns the death of Deborah Lynn Fox of Alton.

SENATE RESOLUTION NO. 138

Offered by Senator Lauzen and all Senators:
Mourns the death of Anthony C. Aiello of Wayne.

SENATE RESOLUTION NO. 139

Offered by Senator Wilhelmi and all Senators:
Mourns the death of Gregory Ellis Brooks of Jacksonville.

SENATE RESOLUTION NO. 140

Offered by Senator Wilhelmi and all Senators:
Mourns the death of Frank Kodiak of Wilmington.

SENATE RESOLUTION NO. 141

Offered by Senator Wilhelmi and all Senators:
Mourns the death of Martha Sarah Sehring.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

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

SENATE JOINT RESOLUTION NO. 30

WHEREAS, The astronomical number of vacant homes and "for sale" signs in Illinois communities reveal the dramatic impact the current economic crisis has had on homeowners throughout this State; and

WHEREAS, In the third quarter of 2010, Illinois posted the nation's fourth largest foreclosure activity total, with 47,802 properties receiving foreclosure filings, according to Realty Trac; and

WHEREAS, The foreclosure and housing crisis is a setback in years of gains Illinoisans had achieved in the frontiers of homeownership and wealth creation; for the first time, there seems to be a regressive pattern where homeowners are moving towards becoming homeless; these alarming statistics are the impetus for public intervention that will examine and provide direction on the residential mortgage foreclosure crisis and housing availability in this State; and

WHEREAS, Communities throughout this State are in need of additional resources to creatively respond to the detrimental issues caused by the enormous tide of foreclosures and the housing crisis; and

WHEREAS, The Comprehensive Housing Planning Act created the State Housing Task Force, which is charged with creating a comprehensive and unified policy for the allocation of resources for affordable housing and supportive services for historically underserved populations throughout the State, in order to accomplish the following:

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

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

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

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

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

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

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

(8) encourage development of State incentives for communities to create a mix of housing to meet the

needs of current and future residents; and

WHEREAS, The State of Illinois' Annual 2011 Comprehensive Housing Plan published by the State Housing Task Force prioritizes foreclosure prevention and mitigation; and

WHEREAS, The duties of the State Housing Task Force clearly encompass the ability to study and make recommendations on the impact of foreclosures on Illinois residents and communities; and

WHEREAS, Recognizing the solutions to the foreclosure crisis are as complex as the issue, there is a pressing need for the State Housing Task Force to pursue strategies advancing foreclosure prevention, mitigation, and actions to redevelop impacted communities; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the Task Force shall meet to organize and select a Foreclosure Prevention and Mitigation Working Group (the "Foreclosure Working Group"), of which the chairperson shall be the Executive Director of the Illinois Housing Development Authority or a designee and the co-chairperson will be a non-governmental Foreclosure Working Group member elected by the Foreclosure Working Group; and be it further

RESOLVED, That the Foreclosure Working Group shall be appointed by the Task Force and be comprised of a range of constituencies and stakeholders that can contribute to the study of the foreclosure crisis and formulate recommendations to address the impact of foreclosure on communities, and may include Task Force members and additional experts to provide a thorough and comprehensive foreclosure prevention, mitigation and impact strategy; the members shall be, with vacancies to be filled in the same manner as original selections, as follows:

(1) one member of the Senate appointed by the President of the Senate and one member of the Senate appointed by the Minority Leader of the Senate;

(2) one member of the House of Representatives appointed by the Speaker of the House of Representatives, and one member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(3) representatives of the housing industry, not-for-profit community, and private financial institutions:

(A) two representatives of certified HUD housing organizations that provides services to homeowners at risk of losing their home to foreclosure;

(B) one representative from academia with a background or expertise in housing trends and financial regulations;

(C) one representative of a non-profit legal organization that has experience with the foreclosure process;

(D) one person with a background in affordable housing issues;

(E) two persons with a background in housing policy and research;

(F) one homeowner who has been impacted by the foreclosure crisis in Illinois; and

(G) one representative of a local financial or lending institution;

(4) representatives of governmental agencies familiar with the foreclosure and housing crisis:

(A) one representative of the Division of Banking within the Department of Financial and Professional Regulation;

(B) one representative of the Illinois Housing Development Authority's Neighborhood Stabilization Program;

(C) one representative of the Office of the Attorney General that works directly with housing subprime lending patterns and the foreclosure mitigation process; and

(D) one representative of the Department of Human Services' Homeless Prevention Program; and be it further

RESOLVED, That the Foreclosure Working Group will serve for a period of not less than 2 years from the date of the first Working Group meeting; and may continue to serve for an extended period at the recommendation of the Working Group members based the need to address foreclosure prevention, mitigation, and impact issues; and be it further

RESOLVED, That the Working Group shall meet at least 4 times a year at the call of the chairperson; members of the Foreclosure Working Group shall serve without compensation, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Task Force from funds appropriated by the General Assembly for that purpose; and be it further

RESOLVED, That the Illinois Housing Development Authority shall provide staffing, administrative, and financial support to the Foreclosure Working Group; and be it further

RESOLVED, That the duties of the Foreclosure Working Group shall include all of the following:

(1) monitor the emerging housing problems in Illinois and make recommendations concerning these issues; and

(2) oversee actions to prevent foreclosures and mitigate their impact on local communities; and

(3) oversee and provide insight about the rebuilding process caused by the housing crisis and provide a comprehensive and holistic approach to the rebuilding process; and

(4) divide the work of the Foreclosure Working into 3 primary focus areas as follows:

(A) Foreclosure Impact: This area shall be responsible for monitoring the foreclosure activity in Illinois and determining approaches to mitigate the impact on local communities;

(B) Housing Education and Outreach: This area shall be responsible for recommending outreach, counseling, and education programs focused on foreclosure prevention and other affordable housing programs needed to stabilize communities in Illinois;

(C) Regulatory Reform: This area shall be responsible for reviewing existing Illinois laws and regulations and making appropriate revisions and recommendations for legislative actions; and be it further

RESOLVED, That the State Housing Task Force shall submit an addendum to reports required by the Comprehensive Housing Planning Act, which shall include Foreclosure Working Group recommendations for effective policy advisements regarding housing policies and funding mechanisms to address the foreclosure and housing crisis, and shall provide an update on general housing trends affecting the residents in this State.

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

SENATE JOINT RESOLUTION NO. 31

WHEREAS, A new bridge carrying Interstate 70 over the Mississippi River connecting East St. Louis and downtown St. Louis, Missouri is under construction; and

WHEREAS, Jerry F. Costello was born September 25, 1949 in East St. Louis; he has served as a U.S. Representative since August 9, 1988; during that time he has made it a priority to boost the local economy by building a new transportation network for the region; he is currently the senior Democrat on the Transportation and Infrastructure Committee and played an instrumental role in securing substantial federal funding for the new Mississippi River bridge; and

WHEREAS, William Lacy "Bill" Clay, Sr. was born April 30, 1931 in St. Louis, Missouri; in 1968 he was elected the first African-American U.S. Representative from Missouri; during his time in office he made it a priority to focus on issues affecting his urban constituents and became known as a staunch advocate on behalf of underrepresented populations and issues; he served 16 terms as a U.S. Representative before retiring in 2001; and

WHEREAS, it is fitting to dedicate the new Mississippi River bridge in honor of the veterans who have served in the U.S. Armed Forces as a humble gesture of thanks for the freedoms we enjoy on a A4D
daily basis; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the

new bridge carrying Interstate 70 over the Mississippi River connecting East St. Louis and downtown St. Louis, Missouri is designated as the Jerry F. Costello - William Lacy "Bill" Clay Sr. Veterans Memorial Bridge; and be it further

RESOLVED, That the Illinois Department of Transportation is requested to erect at suitable locations, consistent with State and federal regulations, appropriate plaques or signs giving notice of the name of the Jerry F. Costello - William Lacy "Bill" Clay Sr. Veterans Memorial Bridge; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Secretary of the Illinois Department of Transportation.

APPOINTMENT MESSAGES

Appointment Message No. 49

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Assistant Director

Agency or Other Body: Illinois Emergency Management Agency

Start Date: March 25, 2011

End Date: January 21, 2013

Name: Joseph Klinger

Residence: 2524 Muirfield Rd., Springfield, IL 62711

Annual Compensation: $115,613

Per diem: Not Applicable

Nominee's Senator: Senator Larry K. Bomke

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 50

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: State Fire Marshal

Agency or Other Body: Office of the State Fire Marshal

Start Date: March 25, 2011

End Date: January 21, 2013

Name: Lawrence Matkaitis

Residence: 11363 S. Millard Ave, Chicago, IL 60655

Annual Compensation: $115,613

Per diem: Not Applicable

Nominee's Senator: Senator Edward D. Maloney

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 51

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Director

Agency or Other Body: Department of Labor

Start Date: April 18, 2011

End Date: January 21, 2013

Name: Joseph Costigan

Residence: 317 South Euclid Ave., Oak Park, IL 60302

Annual Compensation: $124,090

Per diem: Not Applicable

Nominee's Senator: Senator Don Harmon

Most Recent Holder of Office: Catherine Shannon

Superseded Appointment Message: Not Applicable

Appointment Message No. 52

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Director

Agency or Other Body: Illinois State Police

Start Date: April 11, 2011

End Date: January 21, 2013

Name: Hiram Grau

Residence: 5115 N. Newland Ave., Chicago, IL 60656

Annual Compensation: $132,566

Per diem: Not Applicable

Nominee's Senator: Senator John G. Mulroe

Most Recent Holder of Office: Jonathon Monken

Superseded Appointment Message: Not Applicable

Appointment Message No. 53

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Board of Trustees of Northeastern Illinois University

Start Date: March 28, 2011

End Date: January 16, 2017

Name: Jonathan Joel Stein

Residence: 634 LaCrosse Ave., Wilmette, IL 60091

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Jeffrey M. Schoenberg

Most Recent Holder of Office: Grace Dawson

Superseded Appointment Message: Not Applicable

Appointment Message No. 54

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Illinois Human Rights Commission

Start Date: March 28, 2011

End Date: January 21, 2013

Name: Terry Cosgrove

Residence: 6805 N. Greenview, #2, Chicago, IL 60626

Annual Compensation: $46,960

Per diem: Not Applicable

Nominee's Senator: Senator Heather A. Steans

Most Recent Holder of Office: Gregory Simoncini

Superseded Appointment Message: Not Applicable

Appointment Message No. 55

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Capital Development Board

Start Date: March 28, 2011

End Date: January 21, 2013

Name: Peter J. O'Brien, Sr.

Residence: 1526 N. Wieland St. Chicago, IL 60610

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Mattie Hunter

Most Recent Holder of Office: Reagan Atwood

Superseded Appointment Message: Not Applicable

Appointment Message No. 56

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate,

appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Illinois Human Rights Commission

Start Date: March 28, 2011

End Date: January 19, 2015

Name: Robert Antimo Cantone

Residence: 8820 Butterfield Ln., Orland Park, IL 60462

Annual Compensation: $46,960

Per diem: Not Applicable

Nominee's Senator: Senator Emil Jones, III

Most Recent Holder of Office: Charles Box

Superseded Appointment Message: Not Applicable

Appointment Message No. 57

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Chairman

Agency or Other Body: Capital Development Board

Start Date: March 28, 2011

End Date: January 19, 2015

Name: Anthony R. Licata

Residence: 176 Sheridan Rd., Highland Park, IL 60035

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Susan Garrett

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 58

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Judge

Agency or Other Body: Court of Claims

Start Date: March 28, 2011

End Date: January 18, 2016

Name: Peter J. Birnbaum

Residence: 1910 W. Cornelia Ave., Chicago, IL 60657

Annual Compensation: $59,918

Per diem: Not Applicable

Nominee's Senator: Senator John J. Cullerton

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 59

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Judge

Agency or Other Body: Court of Claims

Start Date: March 28, 2011

End Date: January 16, 2017

Name: Gerald E. Kubasiak

Residence: 1100 N. Lake Shore Dr., Chicago, IL 60611

Annual Compensation: $59,918

Per diem: Not Applicable

Nominee's Senator: Senator Kwame Raoul

Most Recent Holder of Office: James L. Kaplan

Superseded Appointment Message: Not Applicable

Under the rules, the foregoing Appointment Messages were referred to the Committee on Assignments.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

On motion of Senator Delgado**, House Bill No. 105** was taken up, read by title a first time and referred to the Committee on Assignments.

On motion of Senator Frerichs**, House Bill No. 166** was taken up, read by title a first time and referred to the Committee on Assignments.

On motion of Senator Delgado**, House Bill No. 279** was taken up, read by title a first time and referred to the Committee on Assignments.

On motion of Senator Maloney**, House Bill No. 1224** was taken up, read by title a first time and referred to the Committee on Assignments.

At the hour of 12:17 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 12:29 o'clock p.m., the Senate resumed consideration of business.
Senator Clayborne, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its March 29, 2011 meeting, reported the following Senate Bills have been assigned to the indicated Standing Committees of the Senate:

Appropriations I: **Senate Bill No. 2480.**

Appropriations II: **Senate Bills Numbered 2479 and 2481.**

Pensions and Investments: **Senate Bill No. 2014.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its March 29, 2011 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Senate Floor Amendment No. 2 to Senate Bill 2010**.

Commerce: **Senate Floor Amendment No. 2 to Senate Joint Resolution 3; Senate Floor Amendment No. 1 to Senate Bill 2082; Senate Committee Amendment No. 1 to Senate Bill 2123**.

Criminal Law: **Senate Floor Amendment No. 2 to Senate Bill 1701**.

Energy: **Senate Committee Amendment No. 1 to Senate Bill 1365**.

Executive: **Senate Committee Amendment No. 3 to Senate Bill 133; Senate Floor Amendment No. 3 to Senate Bill 541; Senate Committee Amendment No. 1 to House Bill 1030; Senate Floor Amendment No. 1 to Senate Bill 1407; Senate Floor Amendment No. 2 to Senate Bill 1435; Senate Committee Amendment No. 1 to Senate Bill 1834; Senate Floor Amendment No. 1 to Senate Bill 1992**.

Higher Education: **Senate Floor Amendment No. 2 to Senate Bill 1798**.

Insurance: **Senate Committee Amendment No. 1 to Senate Bill 119**.

Judiciary: **Senate Floor Amendment No. 3 to Senate Bill 1259; Senate Floor Amendment No. 3 to Senate Bill 1294; Senate Floor Amendment No. 1 to Senate Bill 1372; Senate Floor Amendment No. 2 to Senate Bill 2015**.

Labor: **Senate Floor Amendment No. 1 to Senate Bill 1149.**

Licensed Activities: **Senate Floor Amendment No. 1 to Senate Bill 669; Senate Floor Amendment No. 1 to Senate Bill 1602.**

Revenue: **Senate Floor Amendment No. 1 to Senate Bill 398; Senate Committee Amendment No. 1 to Senate Bill 1566; Senate Floor Amendment No. 1 to Senate Bill 2168; Senate Committee Amendment No. 2 to Senate Bill 2170; Senate Floor Amendment No. 1 to Senate Bill 2225**.

State Government and Veterans Affairs: **Senate Floor Amendment No. 3 to Senate Bill 1270; Senate Floor Amendment No. 2 to Senate Bill 1853.**

Transportation: **Senate Floor Amendment No. 2 to Senate Bill 91; Senate Floor Amendment No. 3 to Senate Bill 952; Senate Floor Amendment No. 3 to Senate Bill 1644; Senate Floor Amendment No. 1 to Senate Bill 1681; Senate Floor Amendment No. 2 to Senate Bill 2064; Senate Floor Amendment No. 1 to Senate Bill 2162**.

Senator Clayborne, Chairperson of the Committee on Assignments, during its March 29, 2011 meeting, reported the following Senate Appointment Messages have been assigned to the indicated Standing Committee of the Senate:

Executive Appointments: **Appointment Messages Numbered 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its March 29, 2011 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committee of the Senate:

Education: **Senate Joint Resolution No. 27.**

Executive: **Senate Resolution No. 92; Senate Joint Resolution No. 22.**

Human Services: **Senate Resolution No. 125.**

Pensions and Investments: **Senate Resolution No. 83.**

Public Health: **Senate Resolution No. 82.**

Revenue: **Senate Resolution No. 81.**

State Government and Veterans Affairs: **Senate Resolutions Numbered 97, 121 and 133.**

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet at 1:35 o'clock p.m.:

Judiciary in Room 400

The Chair announced the following committees to meet at 2:31 o'clock p.m.:

Executive in Room 212
Revenue in Room 400

The Chair announced the following committees to meet at 4:01 o'clock p.m.:

Appropriations I in Room 212
Transportation in Room 400
Education in Room 409

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator J. Collins, **Senate Bill No. 16,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Garrett, **Senate Bill No. 40** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 40

AMENDMENT NO. 1. Amend Senate Bill 40 on page 13, line 3, after "shall", by inserting ", upon request,"; and

on page 13, line 7, after "promptly", by inserting ", within 10 days before the hearing,"; and

on page 17, line 8, after "minimum", by inserting ", which shall be reviewed by the Board within 120 days"; and

on page 17, line 9, after "service", by inserting "within an existing healthcare facility"; and

on page 17, line 10, after "service", by inserting "within an existing healthcare facility"; and

on page 23, by replacing lines 5 through 7 with the following: "holder submitting the required information and reports. Beginning 6 months after the effective date of this amendatory Act of the 97th General Assembly, the Board shall notify, in writing, a permit holder of the due date for the post-permit requirements no later than 30 days before the due date for the requirements.".

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

On motion of Senator Bivins, **Senate Bill No. 109,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Sullivan, **Senate Bill No. 167** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 167

AMENDMENT NO. 1. Amend Senate Bill 167 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-13-2 and 11-13-26 as follows:

(65 ILCS 5/11-13-2) (from Ch. 24, par. 11-13-2)

Sec. 11-13-2. Zoning commission. Except as provided in Section 11-13-26, the ~~The~~ corporate authorities in each municipality which desires to exercise the powers conferred by this Division 13, or who have exercised such power and desire to adopt a new ordinance, shall provide for a zoning commission with the duty to recommend the boundaries of districts and appropriate regulations to be enforced therein. The commission shall be appointed by the mayor or president, subject to confirmation by the corporate authorities. The commission shall prepare a tentative report and a proposed zoning ordinance for the entire municipality. After the preparation of such a tentative report and ordinance, the commission shall hold a hearing thereon and shall afford persons interested an opportunity to be heard. Notice of the hearing shall be published at least once, not more than 30 nor less than 15 days before the hearing, in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers published in the county in which the municipality is located and having a general circulation within the municipality. The notice shall state the time and place of the hearing and the place where copies of the proposed ordinance will be accessible for examination by interested persons. The hearing may be adjourned from time to time.

Within 30 days after the final adjournment of the hearing the commission shall make a final report and submit a proposed ordinance for the entire municipality to the corporate authorities. The corporate authorities may enact the ordinance with or without change, or may refer it back to the commission for further consideration. The zoning commission shall cease to exist upon the adoption of a zoning ordinance for the entire municipality.

(Source: P.A. 80-452.)

(65 ILCS 5/11-13-26)

Sec. 11-13-26. Wind farms.

(a) A municipality may regulate wind farms and electric-generating wind devices within its zoning jurisdiction and within the 1.5 mile radius surrounding its zoning jurisdiction. There shall be at least one public hearing not more than 30 days prior to a siting decision by the corporate authorities of a municipality. Notice of the hearing shall be published in a newspaper of general circulation in the municipality. A municipality may allow test wind towers to be sited without formal approval by the corporate authorities of the municipality. Test wind towers must be dismantled within 3 years of installation. For the purposes of this Section, "test wind towers" are wind towers that are designed solely to collect wind generation data.

(b) A municipality may not require a wind tower or other renewable energy system that is used exclusively by an end user to be setback more than 1.1 times the height of the renewable energy system from the end user's property line. A setback requirement imposed by a municipality on a renewable energy system may not be more restrictive than as provided under this subsection. This subsection is a limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(c) A municipality may regulate wind farms and electric-generating wind devices pursuant to the authority granted under this Section without creating a zoning commission or adopting a zoning ordinance for the entire municipality. This subsection applies only to issues of siting, limited to the proposed location of wind farms and electric-generating wind devices. No further regulations may be imposed by the municipality without creating a zoning commission or adopting a zoning ordinance for the entire municipality. This subsection (c) applies to ordinances adopted before, on, or after the effective date of this amendatory Act of the 97th General Assembly by a municipality to regulate wind farms and electric-generating wind devices within 1.5 miles of the corporate boundaries of the municipality. No ordinance shall regulate wind farms that were permitted by a county with jurisdiction over the property prior to the effective date of the ordinance. In addition, any ordinance shall comply with the requirements of subsections (a) and (b) of Section 11-13-26. Except for permitted wind farms, any ordinance shall preempt county zoning regulations that might otherwise be applicable and no county siting approval shall be required within 1.5 miles of the municipality.

(Source: P.A. 95-203, eff. 8-16-07; 96-306, eff. 1-1-10.)

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

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

On motion of Senator Garrett, **Senate Bill No. 541,** having been printed, was taken up, read by title a second time.

Senate Committee Amendment Nos. 1 and 2 were held in the Committee on Assignments.
Senate Floor Amendment No. 3 was referred to the Committee on Executive earlier today.
There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Garrett, **Senate Bill No. 769** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 769

AMENDMENT NO. 1. Amend Senate Bill 769 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Sections 5-5.4, 5B-2, 5B-4, and 5B-8 as follows:

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Healthcare and Family Services. The Department of Healthcare and Family Services shall develop standards of payment of nursing facility and ICF/DD services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for nursing facility or ICF/DD services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the MR/DD Community Care Act or the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2012, unless specifically provided for in this Section. The changes made by Public Act 93-841 extending the duration of the prohibition against a rate increase or update for inflation are effective retroactive to July 1, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus $1.10 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2006 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2009 shall include an increase sufficient to provide a $0.50 per hour wage increase for non-executive staff.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus $3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by $4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for

the nursing component of the rate effective July 1, 2003. The Department of Public Aid (now Healthcare and Family Services) shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 3 years and 184 days after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, except facilities participating in the Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, the numerator of the ratio used by the Department of Healthcare and Family Services to compute the rate payable under this Section using the Minimum Data Set (MDS) methodology shall incorporate the following annual amounts as the additional funds appropriated to the Department specifically to pay for rates based on the MDS nursing component methodology in excess of the funding in effect on December 31, 2006:

(i) For rates taking effect January 1, 2007, $60,000,000.

(ii) For rates taking effect January 1, 2008, $110,000,000.

(iii) For rates taking effect January 1, 2009, $194,000,000.

(iv) For rates taking effect April 1, 2011, or the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 96th General Assembly, $416,500,000 or an amount as may be necessary to complete the transition to the MDS methodology for the nursing component of the rate. Increased payments under this item (iv) are not due and payable, however, until (i) the methodologies described in this paragraph are approved by the federal government in an appropriate State Plan amendment and (ii) the assessment imposed by Section 5B-2 of this Code is determined to be a permissible tax under Title XIX of the Social Security Act.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care

facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, if the payment methodologies required under Section 5A-12 and the waiver granted under 42 CFR 433.68 are approved by the United States Centers for Medicare and Medicaid Services, the rates taking effect on July 1, 2004 shall be 3.0% greater than the rates in effect on June 30, 2004. These rates shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on January 1, 2005 shall be 3% more than the rates in effect on December 31, 2004.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2009, the per diem support component of the rates effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures, and inflators.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as intermediate care facilities that are federally defined as Institutions for Mental Disease, a socio-development component rate equal to 6.6% of the facility's nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. The socio-development component of the rate shall be increased by a factor of 2.53 on the first day of the month that begins at least 45 days after January 11, 2008 (the effective date of Public Act 95-707). As of August 1, 2008, the socio-development component rate shall be equal to 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53. For services provided on or after April 1, 2011, or the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 96th General Assembly, whichever is later, the Illinois Department may by rule adjust these socio-development component rates, and may use different adjustment methodologies for those facilities participating, and those not participating, in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, but in no case may such rates be diminished below those in effect on August 1, 2008.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 95th General Assembly shall include a statewide increase of 2.5%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2005, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985,

fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Healthcare and Family Services shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

The Department shall develop enhanced payments to offset the additional costs incurred by a facility serving exceptional need residents and shall allocate at least $8,000,000 of the funds collected from the assessment established by Section 5B-2 of this Code for such payments. For the purpose of this Section, "exceptional needs" means, but need not be limited to, ventilator care, tracheotomy care, bariatric care, complex wound care, and traumatic brain injury care. The enhanced payments for exceptional need residents under this paragraph are not due and payable, however, until (i) the methodologies described in this paragraph are approved by the federal government in an appropriate State Plan amendment and (ii) the assessment imposed by Section 5B-2 of this Code is determined to be a permissible tax under Title XIX of the Social Security Act.

(5) Beginning July 1, 2012 the methodologies for reimbursement of nursing facility services as provided under this Section 5-5.4 shall no longer be applicable for bills payable for State fiscal years 2012 and thereafter.

(6) No payment increase under this Section for the MDS methodology, exceptional care residents, or the socio-development component rate established by Public Act 96-1530 of the 96th General Assembly and funded by the assessment imposed under Section 5B-2 of this Code shall be due and payable until after the Department notifies the long-term care providers, in writing, that the payment methodologies to long-term care providers required under this Section have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and the waivers under 42 CFR 433.68 for the assessment imposed by this Section, if necessary, have been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. Upon notification to the Department of approval of the payment methodologies required under this Section and the waivers granted under 42 CFR 433.68, all increased payments otherwise due under this Section prior to the date of notification shall be due and payable within 90 days of the date federal approval is received.

(Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11.)

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

Sec. 5B-2. Assessment; no local authorization to tax.

(a) For the privilege of engaging in the occupation of long-term care provider, beginning July 1, 2011 an assessment is imposed upon each long-term care provider in an amount equal to $6.07 times the number of occupied bed days due and payable each month. Notwithstanding any provision of any other Act to the contrary, this assessment shall be construed as a tax, but may not be added to the charges of an individual's nursing home care that is paid for in whole, or in part, by a federal, State, or combined federal-state medical care program.

(b) Nothing in this amendatory Act of 1992 shall be construed to authorize any home rule unit or other unit of local government to license for revenue or impose a tax or assessment upon long-term care providers or the occupation of long-term care provider, or a tax or assessment measured by the income or earnings or occupied bed days of a long-term care provider.

(c) The assessment imposed by this Section shall not be due and payable, however, until after the Department notifies the long-term care providers, in writing, that the payment methodologies to long-term care providers required under Section 5-5.4 of this Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and the waivers under 42 CFR 433.68 for the assessment imposed by this Section, if necessary, have been

granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

(Source: P.A. 96-1530, eff. 2-16-11.)

(305 ILCS 5/5B-4) (from Ch. 23, par. 5B-4)

Sec. 5B-4. Payment of assessment; penalty.

(a) The assessment imposed by Section 5B-2 shall be due and payable monthly, on the last State business day of the month for occupied bed days reported for the preceding third month prior to the month in which the tax is payable and due. A facility that has delayed payment due to the State's failure to reimburse for services rendered may request an extension on the due date for payment pursuant to subsection (b) and shall pay the assessment within 30 days of reimbursement by the Department. The Illinois Department may provide that county nursing homes directed and maintained pursuant to Section 5-1005 of the Counties Code may meet their assessment obligation by certifying to the Illinois Department that county expenditures have been obligated for the operation of the county nursing home in an amount at least equal to the amount of the assessment.

(a-5) Each assessment payment shall be accompanied by an assessment report to be completed by the long-term care provider. A separate report shall be completed for each long-term care facility in this State operated by a long-term care provider. The report shall be in a form and manner prescribed by the Illinois Department and shall at a minimum provide for the reporting of the number of occupied bed days of the long-term care facility for the reporting period and other reasonable information the Illinois Department requires for the administration of its responsibilities under this Code. To the extent practicable, the Department shall coordinate the assessment reporting requirements with other reporting required of long-term care facilities.

(b) The Illinois Department is authorized to establish delayed payment schedules for long-term care providers that are unable to make assessment payments when due under this Section due to financial difficulties, as determined by the Illinois Department. The Illinois Department may not deny a request for delay of payment of the assessment imposed under this Article if the long-term care provider has not been paid for services provided during the month on which the assessment is levied.

(c) If a long-term care provider fails to pay the full amount of an assessment payment when due (including any extensions granted under subsection (b)), there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment imposed by Section 5B-2 a penalty assessment equal to the lesser of (i) 5% of the amount of the assessment payment not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter or (ii) 100% of the assessment payment amount not paid on or before the due date. For purposes of this subsection, payments will be credited first to unpaid assessment payment amounts (rather than to penalty or interest), beginning with the most delinquent assessment payments. Payment cycles of longer than 60 days shall be one factor the Director takes into account in granting a waiver under this Section.

(c-5) If a long-term care provider fails to file its report with payment, there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment due a penalty assessment equal to 25% of the assessment due.

(d) Nothing in this amendatory Act of 1993 shall be construed to prevent the Illinois Department from collecting all amounts due under this Article pursuant to an assessment imposed before the effective date of this amendatory Act of 1993.

(e) Nothing in this amendatory Act of the 96th General Assembly shall be construed to prevent the Illinois Department from collecting all amounts due under this Code pursuant to an assessment, tax, fee, or penalty imposed before the effective date of this amendatory Act of the 96th General Assembly.

(f) No installment of the assessment imposed by Section 5B-2 shall be due and payable until after the Department notifies the long-term care providers, in writing, that the payment methodologies to long-term care providers required under Section 5-5.4 of this Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and the waivers under 42 CFR 433.68 for the assessment imposed by this Section, if necessary, have been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. Upon notification to the Department of approval of the payment methodologies required under Section 5-5.4 of this Code and the waivers granted under 42 CFR 433.68, all installments otherwise due under Section 5B-4 prior to the date of notification shall be due and payable to the Department upon written direction from the Department within 90 days after issuance by the Comptroller of the payments required under Section 5-5.4 of this Code.

(Source: P.A. 96-444, eff. 8-14-09; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5B-8) (from Ch. 23, par. 5B-8)

Sec. 5B-8. Long-Term Care Provider Fund.

(a) There is created in the State Treasury the Long-Term Care Provider Fund. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any moneys appropriated to the Medicaid program by the General Assembly.

(b) The Fund is created for the purpose of receiving and disbursing moneys in accordance with this Article. Disbursements from the Fund shall be made only as follows:

(1) For payments to nursing facilities, including county nursing facilities but excluding State-operated facilities, under Title XIX of the Social Security Act and Article V of this Code.

(2) For the reimbursement of moneys collected by the Illinois Department through error or mistake.

(3) For payment of administrative expenses incurred by the Illinois Department or its agent in performing the activities authorized by this Article.

(3.5) For reimbursement of expenses incurred by long-term care facilities, and payment of administrative expenses incurred by the Department of Public Health, in relation to the conduct and analysis of background checks for identified offenders under the Nursing Home Care Act.

(4) For payments of any amounts that are reimbursable to the federal government for payments from this Fund that are required to be paid by State warrant.

(5) For making transfers to the General Obligation Bond Retirement and Interest Fund, as those transfers are authorized in the proceedings authorizing debt under the Short Term Borrowing Act, but transfers made under this paragraph (5) shall not exceed the principal amount of debt issued in anticipation of the receipt by the State of moneys to be deposited into the Fund.

(6) For making transfers, at the direction of the Director of the Governor's Office of Management and Budget during each fiscal year beginning on or after July 1, 2011, to other State funds in an annual amount of $20,000,000 of the tax collected pursuant to this Article for the purpose of enforcement of nursing home standards, support of the ombudsman program, and efforts to expand home and community-based services. No transfer under this paragraph shall occur until (i) the payment methodologies created by Public Act 96-1530 under Section 5-5.4 of this Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and (ii) the assessment imposed by Section 5B-2 of this Code is determined to be a permissible tax under Title XIX of the Social Security Act.

Disbursements from the Fund, other than transfers made pursuant to paragraphs (5) and (6) of this subsection, shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Illinois Department.

(c) The Fund shall consist of the following:

(1) All moneys collected or received by the Illinois Department from the long-term care provider assessment imposed by this Article.

(2) All federal matching funds received by the Illinois Department as a result of expenditures made by the Illinois Department that are attributable to moneys deposited in the Fund.

(3) Any interest or penalty levied in conjunction with the administration of this Article.

(4) (Blank).

(5) All other monies received for the Fund from any other source, including interest earned thereon.

(Source: P.A. 95-707, eff. 1-11-08; 96-1530, eff. 2-16-11.)

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

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

On motion of Senator Cullerton, **Senate Bill No. 919,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Harmon, **Senate Bill No. 952,** having been printed, was taken up, read by title a second time.

Senate Committee Amendments Nos. 1 and 2 were held in the Committee on Assignments.

Senate Floor Amendment No. 3 was referred to the Committee on Transportation earlier today.

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

On motion of Senator Link, **Senate Bill No. 1148,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **Senate Bill No. 1234,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Frerichs, **Senate Bill No. 1280** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1280

AMENDMENT NO. 1. Amend Senate Bill 1280 as follows:

on page 2, by replacing lines 3 through 8 with the following:

"to Soil and Water Conservation Districts and Conservation Land Trusts for conservation stewardship and land protection ~~practice~~ cost-share grants for water quality protection and improvement and for personnel, educational, and administrative expenses."; and

on page 2, lines 25 and 26, by replacing "conservation land trusts" with "Conservation Land Trusts".

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

On motion of Senator Steans, **Senate Bill No. 1282** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1282

AMENDMENT NO. 1. Amend Senate Bill 1282 as follows:

on page 2, by replacing lines 24 through 26 with the following:

"surgical cases. Claims and encounter data submitted under this Act shall not include a patient's ~~name, address, or~~ Social Security number ; provided, however, that the Department may require, by rule, the inclusion of a unique patient identifier that may be based upon the last four digits of the patient's Social Security number. The Department shall promulgate regulations to protect the patient's rights of confidentiality and privacy. The regulations shall ensure that patient names, addresses, social security numbers, or any other data that the Department believes could be used to determine the identity of an individual patient shall be stored and processed in the most secure manner possible.".

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

On motion of Senator Jacobs, **Senate Bill No. 1286,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **Senate Bill No. 1294,** having been printed, was taken up, read by title a second time.

Senate Committee Amendments Numbered 1 and 2 were held in the Committee on Assignments.

Senate Floor Amendment No. 3 was referred to the Committee on Judiciary earlier today.

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

On motion of Senator Dillard, **Senate Bill No. 1295,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Mulroe, **Senate Bill No. 1306** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1306

AMENDMENT NO. 1. Amend Senate Bill 1306 as follows:

on page 2, line 14, after "a bank," by inserting "a licensee under the Consumer Installment Loan Act,".

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

On motion of Senator Maloney, **Senate Bill No. 1321** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Assignments.

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

AMENDMENT NO. 2 TO SENATE BILL 1321

AMENDMENT NO. 2. Amend Senate Bill 1321 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 5.786 as follows:
(30 ILCS 105/5.786 new)
Sec. 5.786. The Premise Alert Program Fund.

Section 10. The Illinois Premise Alert Program (PAP) Act is amended by changing Sections 10 and 15 as follows:
(430 ILCS 132/10)
Sec. 10. Definitions. As used in this Act:
"Disability" means an individual's physical or mental impairment that substantially limits one or more of the major life activities; a record of such impairment; or when the individual is regarded as having such an impairment. "Disability" includes, but is not limited to, a medical impairment that requires the use of pressurized oxygen.
"Special needs individuals" means those individuals who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required by individuals generally. "Special needs individual" includes, but is not limited to, an individual with a medical impairment that requires the use of pressurized oxygen.
"Public safety agency" means a functional division of a public agency that provides firefighting, police, medical, or other emergency services.
"Computer aided dispatch" or "CAD" means a database maintained by the public safety agency or public safety answering point used in conjunction with 9-1-1 caller data.
"Premise Alert Program" or "PAP" means a computer aided dispatch database of individuals with special needs maintained by public safety agencies.
(Source: P.A. 96-788, eff. 8-28-09.)
(430 ILCS 132/15)
Sec. 15. Reporting of Special Needs Individuals.
(a) Public safety agencies and suppliers of oxygen containers used for medical purposes shall make reasonable efforts to publicize the Premise Alert Program (PAP) database. Means of publicizing the database include, but are not limited to, pamphlets and websites.
(b) Families, caregivers, or the individuals with disabilities or special needs may contact their local law enforcement agency or fire department or fire protection district.
(c) Public safety workers are to be cognizant ~~cognitive~~ of special needs individuals they may come across when they respond to calls. If workers are able to identify individuals who have special needs, they shall try to ascertain as specifically as possible what that special need might be. The public safety worker should attempt to verify the special need as provided in item (2) of subsection (d).
(d) The disabled individual's name, date of birth, phone number, ~~and~~ residential address or place of employment , and a description of whether oxygen canisters are kept at that location for medical purposes should also be obtained for possible entry into the PAP database.

(1) Whenever possible, it is preferable that written permission is obtained from a parent, guardian, family member, or caregiver of the individual themselves prior to being entered into the PAP database.

(2) No individual may be entered into a PAP database unless the special need has been verified. Acceptable means of verifying a special need for purposes of this program shall include statements by:

(A) the individual,

(B) family members,

(C) friends,

(D) caregivers, or

(E) medical personnel familiar with the individual.

(e) For public safety agencies that share the same CAD database, information collected by one agency serviced by the CAD database is to be disseminated to all agencies utilizing that database.

(f) Information received at an incorrect public safety agency shall be accepted and forwarded to the correct agency as soon as possible.

(g) All information entered into the PAP database must be updated every 2 years or when such information changes.

(Source: P.A. 96-788, eff. 8-28-09; revised 9-16-10.)

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

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

On motion of Senator Wilhelmi, **Senate Bill No. 1355,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 1394** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1394

AMENDMENT NO. 1. Amend Senate Bill 1394 on page 6, line 9, by replacing "Before the sale of" with "If the owner chooses to sell"; and

on page 7, below line 21, by inserting the following:

"(L) If 3 or more bidders who are unrelated to the owner are in attendance at a sale held under this Section, the sale and its proceeds are deemed to be commercially reasonable."; and

on page 8, line 3, after "property.", by inserting the following:

"In addition to the remedies otherwise provided by law, only the occupant listed on the last known rental agreement injured by a violation of the Act may bring a civil action to recover damages.".

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

On motion of Senator Jacobs, **Senate Bill No. 1396** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1396

AMENDMENT NO. 1. Amend Senate Bill 1396 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 16-117 as follows:

(220 ILCS 5/16-117)

Sec. 16-117. Commission consumer education program.

(a) The restructuring of the electricity industry will create a new electricity market with new marketers

and sellers offering new goods and services, many of which the average consumer will not be able to readily evaluate. It is the intent of the General Assembly that (i) electricity consumers be provided with sufficient and reliable information so that they are able to compare and make informed selections of products and services provided in the electricity market; and (ii) mechanisms be provided to enable consumers to protect themselves from marketing practices that are unfair or abusive.

(b) The Commission shall ~~implement and~~ maintain ~~a~~ consumer education information ~~program~~ to help ~~provide~~ residential and small commercial retail customers ~~with information to help them~~ understand their service options in a competitive electric services market, and their rights and responsibilities.

(c) Not more than 90 days after the effective date of this amendatory Act of the 97th General Assembly, the Commission shall direct the Office of Retail Market Development to review the existing consumer education information for residential and small commercial customers and consider whether updates are necessary. The Office of Retail Market Development shall seek input from interested persons, including alternative retail electric suppliers, electric utilities, the Attorney General, and the Citizens Utility Board, to further its review of the consumer education materials and possible proposed changes. Within 4 months after the start of the review, the Office of Retail Market Development shall submit recommendations to the Commission for approval. ~~The Commission shall form a working group following the enactment of this amendatory Act of 1997. This group shall consist of 5 representatives of the investor owned electric utilities in this State, 2 of which shall be appointed by electric utilities serving over 1,000,000 retail customers in this State; 2 representatives of alternative retail electric suppliers; 3 representatives of organizations representing the interests of residential and small commercial retail customers; and the Commission.~~

(d) (Blank). ~~By March 1, 1999, with respect to educational materials for small commercial customers and by November 1, 2001 with respect to educational materials for residential customers, the working group appointed pursuant to this Section shall develop a package of printed educational materials which meet the requirements of subsection (e) and shall submit such package to the Commission for approval, along with recommendations for implementing this consumer education program. Such materials shall consider the needs of different types of consumers in this State, such as elderly, low income, multilingual, minority, rural and disabled customers. The working group shall issue recommendations to the Commission on how such education program can be implemented through a variety of communication methods, including specifically mass media, distribution of printed material, public service announcements, and posting on the Internet.~~

(e) At a minimum, the ~~materials constituting the~~ consumer education information ~~program~~ submitted to the Commission by the Office of Retail Market Development ~~working group~~ shall include concise explanations or descriptions of the following:

(1) the structure of the electric utility industry following this amendatory Act of 1997 and a glossary of basic terms;

(2) the choices available to consumers to take electric service from an alternative retail electric supplier or remain as a retail customer of an electric utility;

(3) a customer's rights, risks and responsibilities in receiving service from an alternative retail electric supplier or remaining as a retail customer of an electric utility;

(4) the legal obligations of alternative retail electric suppliers;

(5) those services that may be offered on a competitive basis in a deregulated electric services market, including services that could be packaged with the delivery of electric power and energy;

(6) services that an electric utility is required to provide pursuant to tariffed rates;

(7) the components of a bill that could be received by a customer taking delivery services;

(8) the complaint procedures set forth in Section 10-108 of this Act by which consumers may seek a redress of grievances against an electric utility or an alternative retail electric supplier and a list of phone numbers of the Commission, the Attorney General or other entities that can provide information and assistance to customers; and

(9) additional information available from the Commission upon request.

(f) Within 45 days following the submission required of the Office of Retail Market Development ~~working group~~ by subsection (c) ~~(d)~~ of this Section, the Commission shall approve or disapprove the consumer education information ~~educational materials and recommendations for program implementation~~. ~~The Commission shall be deemed to have approved the educational program materials and recommendations unless the Commission disapproves of any such material or recommendation within 45 days following the date of receipt.~~

(g) Once approved by the Commission, ~~materials comprising~~ the consumer education information

~~program contemplated by this Section~~ shall be provided ~~distributed~~ as follows:

(1) If the electric utility bills residential or small commercial retail customers directly, then the bill shall include the Commission's electric education internet address in the space reserved for alternative retail electric supplier messages. ~~Electric utilities shall mail printed educational materials specified by the working group and approved by the Commission (a) to all residential and small commercial retail customers within a reasonable period prior to the date that such customers become eligible to purchase power from alternative retail electric suppliers, such "reasonable period" to be determined by the Commission; and (b) once the applicable customer class becomes eligible to receive delivery services, to all new residential and small commercial retail customers at the time that such customers begin taking services from the electric utility.~~

(2) Alternative retail electric suppliers shall provide the Commission's electric education internet address ~~include such materials with all initial mailings~~ to all ~~potential~~ residential and small commercial retail customers ~~but in all circumstances prior to the time by which an alternative retail electric supplier executes any agreements or contracts with such customers for the supply of electric services~~.

(3) (Blank). ~~Both electric utilities and alternative retail electric suppliers shall provide such materials at no charge to residential and small commercial retail customers upon request.~~

(4) The Commission shall make the following information available on its web site and printed information from the web site available to the public upon request and at no charge ~~, and shall make available to the public on the Internet through the State of Illinois World Wide Web Site~~:

(A) all consumer education information developed by the Office of Retail Market Development ~~printed educational materials developed by the working group~~ and approved by the Commission;

(B) a list of all certified alternative retail electric suppliers serving residential and small commercial retail customers within the service territory of each electric utility;

(C) a list of alternative retail electric suppliers serving residential or small commercial retail customers which have been found in the last 3 years by the Commission pursuant to Section 10-108 to have failed to provide service in accordance with the terms of their contracts with such retail customers; and

(D) guidelines to assist customers in determining which energy supplier is most appropriate for each customer.

(h) The Commission may also adopt a uniform disclosure form which alternative retail electric suppliers would be required to complete enabling consumers to compare prices, terms and conditions offered by such suppliers.

(i) The Commission shall make available to the public staff with the ability and knowledge to respond to consumer inquiries.

(j) (Blank). ~~The costs of printing educational materials approved by the Commission pursuant to this Section shall be payable solely from funding as provided in this subsection.~~

~~Each year the General Assembly shall appropriate money to the Commission from the General Revenue Fund for the expenses of the Commission associated with this Section. The cost of the consumer education program contemplated by this Section shall not exceed the amount of such appropriation. In no event shall any electric utility, alternative retail electric supplier or customer be liable for the costs of printing consumer education program material in accordance with this Section. The obligations associated with this consumer education program shall not exceed the amounts appropriated for this program pursuant to this Section.~~

(k) (Blank). ~~The Commission shall study the effectiveness of the consumer education program. Such study shall include a notice and an opportunity for participation and comment by all interested and potentially affected parties. Such study shall be completed by January 31st of each year during the mandatory transition period and a summary thereof, together with any legislative recommendations, shall be included in the Commission's Annual Report due in accordance with Section 4-304 of this Act.~~
(Source: P.A. 90-561, eff. 12-16-97.)

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

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

On motion of Senator Jacobs, **Senate Bill No. 1533** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1533

AMENDMENT NO. 1. Amend Senate Bill 1533 by deleting everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by changing Sections 1-5, 1-20, and 1-75 as follows:

(20 ILCS 3855/1-5)

Sec. 1-5. Legislative declarations and findings. The General Assembly finds and declares:

(1) The health, welfare, and prosperity of all Illinois citizens require the provision of adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(2) The transition to retail competition is not complete. Some customers, especially residential and small commercial customers, have failed to benefit from lower electricity costs from retail and wholesale competition.

(3) Escalating prices for electricity in Illinois pose a serious threat to the economic well-being, health, and safety of the residents of and the commerce and industry of the State.

(4) To protect against this threat to economic well-being, health, and safety it is necessary to improve the process of procuring electricity to serve Illinois residents, to promote investment in energy efficiency and demand-response measures, and to support development of clean coal technologies and renewable resources.

(5) Procuring a diverse electricity supply portfolio will ensure the lowest total cost over time for adequate, reliable, efficient, and environmentally sustainable electric service.

(6) Including cost-effective renewable resources in that portfolio will reduce long-term direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure.

(7) Energy efficiency, demand-response measures, and renewable energy are resources currently underused in Illinois.

(8) The State should encourage the use of advanced clean coal technologies that capture and sequester carbon dioxide emissions to advance environmental protection goals and to demonstrate the viability of coal and coal-derived fuels in a carbon-constrained economy.

The General Assembly therefore finds that it is necessary to create the Illinois Power Agency and that the goals and objectives of that Agency are to accomplish each of the following:

(A) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois and for small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load.. The procurement plan shall be updated on an annual basis and shall include renewable energy resources sufficient to achieve the standards specified in this Act.

(B) Conduct competitive procurement processes to procure the supply resources identified in the procurement plan.

(C) Develop electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Illinois Finance Authority.

(D) Supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

(20 ILCS 3855/1-20)

Sec. 1-20. General powers of the Agency.

(a) The Agency is authorized to do each of the following:

(1) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois and for small multi-jurisdictional electric utilities that (A) on December 31, 2005 served less than 100,000 customers in Illinois and (B) request a procurement plan for their Illinois jurisdictional load. The procurement plans shall be updated on an annual basis and shall include electricity generated from renewable resources sufficient to achieve the standards specified in this Act.

(2) Conduct competitive procurement processes to procure the supply resources identified in the procurement plan, pursuant to Section 16-111.5 of the Public Utilities Act.

(3) Develop electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Illinois Finance Authority.

(4) Supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(b) Except as otherwise limited by this Act, the Agency has all of the powers necessary or convenient to carry out the purposes and provisions of this Act, including without limitation, each of the following:

(1) To have a corporate seal, and to alter that seal at pleasure, and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any other manner.

(2) To use the services of the Illinois Finance Authority necessary to carry out the Agency's purposes.

(3) To negotiate and enter into loan agreements and other agreements with the Illinois Finance Authority.

(4) To obtain and employ personnel and hire consultants that are necessary to fulfill the Agency's purposes, and to make expenditures for that purpose within the appropriations for that purpose.

(5) To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the State.

(6) To acquire real or personal property, whether tangible or intangible, including without limitation property rights, interests in property, franchises, obligations, contracts, and debt and equity securities, and to do so by the exercise of the power of eminent domain in accordance with Section 1-21; except that any real property acquired by the exercise of the power of eminent domain must be located within the State.

(7) To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, any of its assets, properties, or any interest therein, wherever situated.

(8) To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities (or interests therein) issued by others, whether engaged in a similar or different business or activity.

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, local government, State agency, or other entity; and all State agencies and all local governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

(10) To lend money, invest and reinvest its funds in accordance with the Public Funds Investment Act, and take and hold real and personal property as security for the payment of funds loaned or invested.

(11) To borrow money at such rate or rates of interest as the Agency may determine, issue its notes, bonds, or other obligations to evidence that indebtedness, and secure any of its obligations by mortgage or pledge of its real or personal property, machinery, equipment, structures, fixtures, inventories, revenues, grants, and other funds as provided or any interest therein, wherever situated.

(12) To enter into agreements with the Illinois Finance Authority to issue bonds whether or not the income therefrom is exempt from federal taxation.

(13) To procure insurance against any loss in connection with its properties or operations in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor.

(14) To negotiate and enter into agreements with trustees or receivers appointed by United States bankruptcy courts or federal district courts or in other proceedings involving adjustment of debts and authorize proceedings involving adjustment of debts and authorize legal counsel for the Agency to appear in any such proceedings.

(15) To file a petition under Chapter 9 of Title 11 of the United States Bankruptcy Code or take other similar action for the adjustment of its debts.

(16) To enter into management agreements for the operation of any of the property or facilities owned by the Agency.

(17) To enter into an agreement to transfer and to transfer any land, facilities, fixtures, or equipment of the Agency to one or more municipal electric systems, governmental aggregators, or rural electric agencies or cooperatives, for such consideration and upon such terms as the Agency may determine to be in the best interest of the citizens of Illinois.

(18) To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this Act.

(19) To maintain an office or offices at such place or places in the State as it may determine.

(20) To request information, and to make any inquiry, investigation, survey, or study that the Agency may deem necessary to enable it effectively to carry out the provisions of this Act.

(21) To accept and expend appropriations.

(22) To engage in any activity or operation that is incidental to and in furtherance of efficient operation to accomplish the Agency's purposes.

(23) To adopt, revise, amend, and repeal rules with respect to its operations, properties, and facilities as may be necessary or convenient to carry out the purposes of this Act, subject to the provisions of the Illinois Administrative Procedure Act and Sections 1-22 and 1-35 of this Act.

(24) To establish and collect charges and fees as described in this Act.

(25) To manage procurement of substitute natural gas from a facility that meets the criteria specified in subsection (a) of Section 1-58 of this Act, on terms and conditions that may be approved by the Agency pursuant to subsection (d) of Section 1-58 of this Act, to support the operations of State agencies and local governments that agree to such terms and conditions. This procurement process is not subject to the Procurement Code.

(Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

(20 ILCS 3855/1-75)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. The Planning and Procurement Bureau shall also develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Agency to prepare a procurement plan for their Illinois jurisdictional load. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) 10 years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) 10 years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award one-year contracts to those selected with an option for the Agency for a one-year renewal.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a one-year contract to the expert or expert consulting firm so selected with Commission approval with an option for the Agency for a one-year renewal.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois, and for eligible Illinois retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load.

(c) Renewable portfolio standard.

(1) The procurement plans shall include cost-effective renewable energy resources.

A minimum percentage of each utility's total supply to serve the load of eligible retail customers, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources: at least 2% by June 1, 2008; at least 4% by June 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1, 2011; at least 7% by June 1, 2012; at least 8% by June 1, 2013; at least 9% by June 1, 2014; at least 10% by June 1, 2015; and increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025. To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation and, beginning on June 1, 2011, at least the following percentages of the renewable energy resources used to meet these standards shall come from photovoltaics on the following schedule: 0.5% by June 1, 2012, 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and thereafter. For purposes of this subsection (c), "cost-effective" means that the costs of procuring renewable energy resources do not cause the limit stated in paragraph (2) of this subsection (c) to be exceeded and do not exceed benchmarks based on market prices for renewable energy resources in the region, which shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(2) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the procurement. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(B) 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;

(C) 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;

(D) 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

(E) thereafter, the amount of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources 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 resources in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of renewable energy resources procured pursuant to this subsection (c) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective renewable energy resources.

(3) Through June 1, 2011, renewable energy resources shall be counted for the purpose of meeting the renewable energy standards set forth in paragraph (1) of this subsection (c) only if they are generated from facilities located in the State, provided that cost-effective renewable energy resources are available from those facilities. If those cost-effective resources are not available in Illinois, they shall be procured in states that adjoin Illinois and may be counted towards compliance. If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance. After June 1, 2011, cost-effective renewable energy resources located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection

(c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the year commencing June 1, 2010, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(A) A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

(B) Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(C) A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) 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 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute. No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act permit on the effective date of this amendatory Act of the 95th General Assembly, and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this

subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided

the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility wilfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(viii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To

assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable.

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) capitalized financing costs during construction, (2) taxes, insurance, and other owner's costs, and (3) an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs.

(a) The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries.

(b) The balance of the operating and maintenance cost quote, excluding delivered fuel costs will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) taxes, insurance, and other owner's costs, and (2) an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include (i) an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and (ii) an analysis of the expected capacity factor for the initial clean coal

facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09; 96-1437, eff. 8-17-10.)

Section 10. The Public Utilities Act is amended by changing Section 16-111.5 as follows:

(220 ILCS 5/16-111.5)

Sec. 16-111.5. Provisions relating to procurement.

(a) An electric utility that on December 31, 2005 served at least 100,000 customers in Illinois shall procure power and energy for its eligible retail customers in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. A small multi-jurisdictional electric utility that on December 31, 2005 served less than 100,000 customers in Illinois may elect to procure power and energy for all or a portion of its eligible Illinois retail customers in accordance with the applicable provisions set forth in this Section and Section 1-75 of the Illinois Power Agency Act. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Illinois Power Agency to prepare a procurement plan for its eligible retail customers. "Eligible retail customers" for the purposes of this Section means those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service. Those customers that are excluded from the definition of "eligible retail customers" shall not be included in the procurement plan load requirements, and the utility shall procure any supply requirements, including capacity, ancillary services, and hourly priced energy, in the applicable markets as needed to serve those customers, provided that the utility may include in its procurement plan load requirements for the load that is associated with those retail customers whose service has been declared or deemed competitive pursuant to Section 16-113 of this Act to the extent that those customers are purchasing power and energy during one of the transition periods identified in

subsection (b) of Section 16-113 of this Act.

(b) A procurement plan shall be prepared for each electric utility consistent with the applicable requirements of the Illinois Power Agency Act and this Section. For purposes of this Section, Illinois electric utilities that are affiliated by virtue of a common parent company are considered to be a single electric utility. Small multi-jurisdictional utilities may request a procurement plan for a portion of or all of its Illinois load. Each procurement plan shall analyze the projected balance of supply and demand for eligible retail customers over a 5-year period with the first planning year beginning on June 1 of the year following the year in which the plan is filed. The plan shall specifically identify the wholesale products to be procured following plan approval, and shall follow all the requirements set forth in the Public Utilities Act and all applicable State and federal laws, statutes, rules, or regulations, as well as Commission orders. Nothing in this Section precludes consideration of contracts longer than 5 years and related forecast data. Unless specified otherwise in this Section, in the procurement plan or in the implementing tariff, any procurement occurring in accordance with this plan shall be competitively bid through a request for proposals process. Approval and implementation of the procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section. A procurement plan shall include each of the following components:

(1) Hourly load analysis. This analysis shall include:

(i) multi-year historical analysis of hourly loads;

(ii) switching trends and competitive retail market analysis;

(iii) known or projected changes to future loads; and

(iv) growth forecasts by customer class.

(2) Analysis of the impact of any demand side and renewable energy initiatives. This analysis shall include:

(i) the impact of demand response programs and energy efficiency programs, both current and projected; for small multi-jurisdictional utilities, the impact of demand response and energy efficiency programs approved pursuant to Section 8-408 of this Act, both current and projected; and

(ii) supply side needs that are projected to be offset by purchases of renewable energy resources, if any. ~~; and~~

~~(iii) the impact of energy efficiency programs, both current and projected.~~

(3) A plan for meeting the expected load requirements that will not be met through preexisting contracts. This plan shall include:

(i) definitions of the different Illinois retail customer classes for which supply is being purchased;

(ii) the proposed mix of demand-response products for which contracts will be executed during the next year. For small multi-jurisdictional electric utilities that on December 31, 2005 served fewer than 100,000 customers in Illinois, these shall be defined as demand-response products offered in an energy efficiency plan approved pursuant to Section 8-408 of this Act. The cost-effective demand-response measures shall be procured whenever the cost is lower than procuring comparable capacity products, provided that such products shall:

(A) be procured by a demand-response provider from eligible retail customers;

(B) at least satisfy the demand-response requirements of the regional transmission organization market in which the utility's service territory is located, including, but not limited to, any applicable capacity or dispatch requirements;

(C) provide for customers' participation in the stream of benefits produced by the demand-response products;

(D) provide for reimbursement by the demand-response provider of the utility for any costs incurred as a result of the failure of the supplier of such products to perform its obligations thereunder; and

(E) meet the same credit requirements as apply to suppliers of capacity, in the applicable regional transmission organization market;

(iii) monthly forecasted system supply requirements, including expected minimum, maximum, and average values for the planning period;

(iv) the proposed mix and selection of standard wholesale products for which contracts will be executed during the next year, separately or in combination, to meet that portion of its load requirements not met through pre-existing contracts, including but not limited to monthly 5 x 16 peak period block energy, monthly off-peak wrap energy, monthly 7 x 24 energy, annual 5 x 16 energy, annual off-peak wrap energy, annual 7 x 24 energy, monthly capacity, annual capacity, peak load capacity obligations, capacity purchase plan, and ancillary services;

(v) proposed term structures for each wholesale product type included in the

proposed procurement plan portfolio of products; and

(vi) an assessment of the price risk, load uncertainty, and other factors that are associated with the proposed procurement plan; this assessment, to the extent possible, shall include an analysis of the following factors: contract terms, time frames for securing products or services, fuel costs, weather patterns, transmission costs, market conditions, and the governmental regulatory environment; the proposed procurement plan shall also identify alternatives for those portfolio measures that are identified as having significant price risk.

(4) Proposed procedures for balancing loads. The procurement plan shall include, for load requirements included in the procurement plan, the process for (i) hourly balancing of supply and demand and (ii) the criteria for portfolio re-balancing in the event of significant shifts in load.

(c) The procurement process set forth in Section 1-75 of the Illinois Power Agency Act and subsection (e) of this Section shall be administered by a procurement administrator and monitored by a procurement monitor.

(1) The procurement administrator shall:

(i) design the final procurement process in accordance with Section 1-75 of the Illinois Power Agency Act and subsection (e) of this Section following Commission approval of the procurement plan;

(ii) develop benchmarks in accordance with subsection (e)(3) to be used to evaluate bids; these benchmarks shall be submitted to the Commission for review and approval on a confidential basis prior to the procurement event;

(iii) serve as the interface between the electric utility and suppliers;

(iv) manage the bidder pre-qualification and registration process;

(v) obtain the electric utilities' agreement to the final form of all supply contracts and credit collateral agreements;

(vi) administer the request for proposals process;

(vii) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;

(viii) maintain confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(ix) submit a confidential report to the Commission recommending acceptance or rejection of bids;

(x) notify the utility of contract counterparties and contract specifics; and

(xi) administer related contingency procurement events.

(2) The procurement monitor, who shall be retained by the Commission, shall:

(i) monitor interactions among the procurement administrator, suppliers, and utility;

(ii) monitor and report to the Commission on the progress of the procurement process;

(iii) provide an independent confidential report to the Commission regarding the results of the procurement event;

(iv) assess compliance with the procurement plans approved by the Commission for each utility that on December 31, 2005 provided electric service to a least 100,000 customers in Illinois and for each small multi-jurisdictional utility that on December 31, 2005 served less than 100,000 customers in Illinois;

(v) preserve the confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(vi) provide expert advice to the Commission and consult with the procurement administrator regarding issues related to procurement process design, rules, protocols, and policy-related matters; and

(vii) consult with the procurement administrator regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents.

(d) Except as provided in subsection (j), the planning process shall be conducted as follows:

(1) Beginning in 2008, each Illinois utility procuring power pursuant to this Section shall annually provide a range of load forecasts to the Illinois Power Agency by July 15 of each year, or such other date as may be required by the Commission or Agency. The load forecasts shall cover the 5-year procurement planning period for the next procurement plan and shall include hourly data

representing a high-load, low-load and expected-load scenario for the load of the eligible retail customers. The utility shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2008, the Illinois Power Agency shall prepare a procurement plan by August 15th of each year, or such other date as may be required by the Commission. The procurement plan shall identify the portfolio of demand-response and power and energy products to be procured. Cost-effective demand-response measures shall be procured as set forth in item (iii) of subsection (b) of this Section. Copies of the procurement plan shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to each affected electric utility. An affected utility shall have 30 days following the date of posting to provide comment to the Agency on the procurement plan. Other interested entities also may comment on the procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing within each utility's service area for the purpose of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the procurement plan as necessary based on the comments received and file the procurement plan with the Commission and post the procurement plan on the websites.

(3) Within 5 days after the filing of the procurement plan, any person objecting to the procurement plan shall file an objection with the Commission. Within 10 days after the filing, the Commission shall determine whether a hearing is necessary. The Commission shall enter its order confirming or modifying the procurement plan within 90 days after the filing of the procurement plan by the Illinois Power Agency.

(4) The Commission shall approve the procurement plan, including expressly the forecast used in the procurement plan, if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(e) The procurement process shall include each of the following components:

(1) Solicitation, pre-qualification, and registration of bidders. The procurement administrator shall disseminate information to potential bidders to promote a procurement event, notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process. In addition to such other publication as the procurement administrator determines is appropriate, this information shall be posted on the Illinois Power Agency's and the Commission's websites. The procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (e). The procurement administrator shall then identify and register bidders to participate in the procurement event.

(2) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the utilities, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the applicable electric utility as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark. As part of the development of the procurement process, the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the products that will be procured through the procurement process. The benchmarks shall be based on price data for similar products for the same delivery period and same delivery hub, or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific products and procurement process being used to procure power for the Illinois utilities. The benchmarks shall be confidential but shall be provided to, and will be subject to

Commission review and approval, prior to a procurement event.

(4) Request for proposals competitive procurement process. The procurement administrator shall design and issue a request for proposals to supply electricity in accordance with each utility's procurement plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.

(5) A plan for implementing contingencies in the event of supplier default or failure of the procurement process to fully meet the expected load requirement due to insufficient supplier participation, Commission rejection of results, or any other cause.

(i) Event of supplier default: In the event of supplier default, the utility shall review the contract of the defaulting supplier to determine if the amount of supply is 200 megawatts or greater, and if there are more than 60 days remaining of the contract term. If both of these conditions are met, and the default results in termination of the contract, the utility shall immediately notify the Illinois Power Agency that a request for proposals must be issued to procure replacement power, and the procurement administrator shall run an additional procurement event. If the contracted supply of the defaulting supplier is less than 200 megawatts or there are less than 60 days remaining of the contract term, the utility shall procure power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy, or both, for the duration of the contract term to replace the contracted supply; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(ii) Failure of the procurement process to fully meet the expected load requirement: If the procurement process fails to fully meet the expected load requirement due to insufficient supplier participation or due to a Commission rejection of the procurement results, the procurement administrator, the procurement monitor, and the Commission staff shall meet within 10 days to analyze potential causes of low supplier interest or causes for the Commission decision. If changes are identified that would likely result in increased supplier participation, or that would address concerns causing the Commission to reject the results of the prior procurement event, the procurement administrator may implement those changes and rerun the request for proposals process according to a schedule determined by those parties and consistent with Section 1-75 of the Illinois Power Agency Act and this subsection. In any event, a new request for proposals process shall be implemented by the procurement administrator within 90 days after the determination that the procurement process has failed to fully meet the expected load requirement.

(iii) In all cases where there is insufficient supply provided under contracts awarded through the procurement process to fully meet the electric utility's load requirement, the utility shall meet the load requirement by procuring power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy or both; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(6) The procurement process described in this subsection is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(f) Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the products along with the procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement process and rules. The Commission shall review the confidential reports submitted by the procurement administrator and procurement monitor, and shall accept or reject the recommendations of the procurement administrator within 2 business days after receipt of the reports.

(g) Within 3 business days after the Commission decision approving the results of a procurement event, the utility shall enter into binding contractual arrangements with the winning suppliers using the standard form contracts; except that the utility shall not be required either directly or indirectly to execute the contracts if a tariff that is consistent with subsection (l) of this Section has not been approved and placed into effect for that utility.

(h) The names of the successful bidders and the load weighted average of the winning bid prices for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a procurement event. The Commission, the procurement monitor, the

procurement administrator, the Illinois Power Agency, and all participants in the procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the procurement administrator and procurement monitor pursuant to subsection (f) of this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.

(i) Within 2 business days after a Commission decision approving the results of a procurement event or such other date as may be required by the Commission from time to time, the utility shall file for informational purposes with the Commission its actual or estimated retail supply charges, as applicable, by customer supply group reflecting the costs associated with the procurement and computed in accordance with the tariffs filed pursuant to subsection (l) of this Section and approved by the Commission.

(j) Within 60 days following the effective date of this amendatory Act, each electric utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois shall prepare and file with the Commission an initial procurement plan, which shall conform in all material respects to the requirements of the procurement plan set forth in subsection (b); provided, however, that the Illinois Power Agency Act shall not apply to the initial procurement plan prepared pursuant to this subsection. The initial procurement plan shall identify the portfolio of power and energy products to be procured and delivered for the period June 2008 through May 2009, and shall identify the proposed procurement administrator, who shall have the same experience and expertise as is required of a procurement administrator hired pursuant to Section 1-75 of the Illinois Power Agency Act. Copies of the procurement plan shall be posted and made publicly available on the Commission's website. The initial procurement plan may include contracts for renewable resources that extend beyond May 2009.

(i) Within 14 days following filing of the initial procurement plan, any person may file a detailed objection with the Commission contesting the procurement plan submitted by the electric utility. All objections to the electric utility's plan shall be specific, supported by data or other detailed analyses. The electric utility may file a response to any objections to its procurement plan within 7 days after the date objections are due to be filed. Within 7 days after the date the utility's response is due, the Commission shall determine whether a hearing is necessary. If it determines that a hearing is necessary, it shall require the hearing to be completed and issue an order on the procurement plan within 60 days after the filing of the procurement plan by the electric utility.

(ii) The order shall approve or modify the procurement plan, approve an independent procurement administrator, and approve or modify the electric utility's tariffs that are proposed with the initial procurement plan. The Commission shall approve the procurement plan if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(k) In order to promote price stability for residential and small commercial customers during the transition to competition in Illinois, and notwithstanding any other provision of this Act, each electric utility subject to this Section shall enter into one or more multi-year financial swap contracts that become effective on the effective date of this amendatory Act. These contracts may be executed with generators and power marketers, including affiliated interests of the electric utility. These contracts shall be for a term of no more than 5 years and shall, for each respective utility or for any Illinois electric utilities that are affiliated by virtue of a common parent company and that are thereby considered a single electric utility for purposes of this subsection (k), not exceed in the aggregate 3,000 megawatts for any hour of the year. The contracts shall be financial contracts and not energy sales contracts. The contracts shall be executed as transactions under a negotiated master agreement based on the form of master agreement for financial swap contracts sponsored by the International Swaps and Derivatives Association, Inc. and shall be considered pre-existing contracts in the utilities' procurement plans for residential and small commercial customers. Costs incurred pursuant to a contract authorized by this subsection (k) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(l) An electric utility shall recover its costs incurred under this Section, including, but not limited to, the costs of procuring power and energy demand-response resources under this Section. The utility shall file with the initial procurement plan its proposed tariffs through which its costs of procuring power that are incurred pursuant to a Commission-approved procurement plan and those other costs identified in this subsection (l), will be recovered. The tariffs shall include a formula rate or charge designed to pass through both the costs incurred by the utility in procuring a supply of electric power and energy for the applicable customer classes with no mark-up or return on the price paid by the utility for that supply,

plus any just and reasonable costs that the utility incurs in arranging and providing for the supply of electric power and energy. The formula rate or charge shall also contain provisions that ensure that its application does not result in over or under recovery due to changes in customer usage and demand patterns, and that provide for the correction, on at least an annual basis, of any accounting errors that may occur. A utility shall recover through the tariff all reasonable costs incurred to implement or comply with any procurement plan that is developed and put into effect pursuant to Section 1-75 of the Illinois Power Agency Act and this Section, including any fees assessed by the Illinois Power Agency, costs associated with load balancing, and contingency plan costs. The electric utility shall also recover its full costs of procuring electric supply for which it contracted before the effective date of this Section in conjunction with the provision of full requirements service under fixed-price bundled service tariffs subsequent to December 31, 2006. All such costs shall be deemed to have been prudently incurred. The pass-through tariffs that are filed and approved pursuant to this Section shall not be subject to review under, or in any way limited by, Section 16-111(i) of this Act.

(m) The Commission has the authority to adopt rules to carry out the provisions of this Section. For the public interest, safety, and welfare, the Commission also has authority to adopt rules to carry out the provisions of this Section on an emergency basis immediately following the effective date of this amendatory Act.

(n) Notwithstanding any other provision of this Act, any affiliated electric utilities that submit a single procurement plan covering their combined needs may procure for those combined needs in conjunction with that plan, and may enter jointly into power supply contracts, purchases, and other procurement arrangements, and allocate capacity and energy and cost responsibility therefor among themselves in proportion to their requirements.

(o) On or before June 1 of each year, the Commission shall hold an informal hearing for the purpose of receiving comments on the prior year's procurement process and any recommendations for change.

(p) An electric utility subject to this Section may propose to invest, lease, own, or operate an electric generation facility as part of its procurement plan, provided the utility demonstrates that such facility is the least-cost option to provide electric service to eligible retail customers. If the facility is shown to be the least-cost option and is included in a procurement plan prepared in accordance with Section 1-75 of the Illinois Power Agency Act and this Section, then the electric utility shall make a filing pursuant to Section 8-406 of the Act, and may request of the Commission any statutory relief required thereunder. If the Commission grants all of the necessary approvals for the proposed facility, such supply shall thereafter be considered as a pre-existing contract under subsection (b) of this Section. The Commission shall in any order approving a proposal under this subsection specify how the utility will recover the prudently incurred costs of investing in, leasing, owning, or operating such generation facility through just and reasonable rates charged to eligible retail customers. Cost recovery for facilities included in the utility's procurement plan pursuant to this subsection shall not be subject to review under or in any way limited by the provisions of Section 16-111(i) of this Act. Nothing in this Section is intended to prohibit a utility from filing for a fuel adjustment clause as is otherwise permitted under Section 9-220 of this Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

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

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

On motion of Senator Martinez, **Senate Bill No. 1539** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1539

AMENDMENT NO. __1__. Amend Senate Bill 1539 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Appraisal Management Company Registration Act.

Section 5. Findings. The General Assembly finds that: It is the intent of the General Assembly that

this Act provide for the regulation of those persons or entities engaged as appraisal management companies for the protection of the public and for the maintenance of high standards of professional conduct by those registered as appraisal management companies and to ensure appraisal independence in the determination of real estate valuations.

Section 10. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or registrant's application file or registration file maintained by the Department's registration maintenance unit. It is the duty of the applicant or registrant to inform the Department of any change of address, and the changes must be made either through the Department's website or by contacting the Department's registration maintenance unit within a prescribed time period as defined by rule.

"Applicant" means a person or entity who applies to the Department for a registration under this Act.

"Appraisal" means (noun) the act or process of developing an opinion of value; an opinion of value (adjective) of or pertaining to appraising and related functions.

"Appraisal firm" means an appraisal entity that is 100% owned and controlled by a person or persons licensed in Illinois as a certified general real estate appraiser or a certified residential real estate appraiser. An appraisal firm does not include an appraisal management company.

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services: (1) administers networks of independent contractors or employee appraisers to perform real estate appraisal assignments for clients; (2) receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or (3) otherwise serves as a third-party broker of appraisal management services between clients and appraisers.

"Appraisal report" means a written appraisal by an appraiser to a client.

"Appraisal practice service" means valuation services performed by an individual acting as an appraiser, including, but not limited to, appraisal, appraisal review, or appraisal consulting.

"Appraiser" means a person who performs real estate or real property appraisals.

"Assignment result" means an appraiser's opinions and conclusions developed specific to an assignment.

"Board" means the Real Estate Appraisal Administration and Disciplinary Board.

"Client" means the party or parties who engage an appraiser by employment or contract in a specific appraisal assignment.

"Controlling Person" means:

(1) an owner, officer, or director of an entity seeking to offer appraisal management services;

(2) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(A) enter into a contractual relationship with a client for the performance of an appraisal management service or appraisal practice service; and

(B) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

"Coordinator" means the Coordinator of the Appraisal Management Company Registration Unit of the Department or his or her designee.

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

"Entity" means a corporation, a limited liability company, partnership, a sole proprietorship, or other entity providing services or holding itself out to provide services as an appraisal management company or an appraisal management service.

"End-user client" means any person who utilizes or engages the services of an appraiser through an appraisal management company.

"Financial institution" means any bank, savings bank, savings and loan association, credit union, mortgage broker, mortgage banker, registrant under the Consumer Installment Loan Act or the Sales Finance Agency Act, or a corporate fiduciary, subsidiary, affiliate, parent company, or holding company of any registrant, or any institution involved in real estate financing that is regulated by State or federal law.

"Person" means individuals, entities, sole proprietorships, corporations, limited liability companies,

and partnerships, foreign or domestic, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Quality control review" means a review of an appraisal report for compliance and completeness, including grammatical, typographical, or other similar errors, unrelated to developing an opinion of value.

"Real estate" means an identified parcel or tract of land, including any improvements.

"Real estate related financial transaction" means any transaction involving:

(1) the sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof;

(2) the refinancing of real property or interests in real property; and

(3) the use of real property or interest in property as security for a loan or investment, including mortgage backed securities.

"Real property" means the interests, benefits, and rights inherent in the ownership of real estate.

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

"USPAP" means the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board under Title XI.

"Valuation" means any estimate of the value of real property in connection with a creditor's decision to provide credit, including those values developed under a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.

Section 15. Exemptions. Nothing in this Act shall to apply to any of the following:

(1) an agency of the federal, State, county, or municipal government or an officer or employee of a government agency, or person, described in this Section when acting within the scope of employment of the officer or employee;

(2) a corporate relocation company whereby the appraisal is not used for mortgage purposes and the end user client is an employer company;

(3) any person licensed in this State under any other Act while engaged in the activities or practice for which he or she is licensed;

(4) any person licensed to practice law in this State who is working with or on behalf of a client of that person in connection with one or more appraisals for that client; or

(5) an appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirement of registration under this Act by requiring an employee of the appraisal management company who is an appraiser to sign an appraisal that was completed by another appraiser who is part of the appraisal panel of the appraisal management company.

In the event that the Final Interim Rule of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act provides that an appraisal management company is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution's regulatory agency and is exempt from State appraisal management company registration requirements, the Department, shall, by rule, provide for the implementation of such an exemption.

Section 20. Restrictions and limitations. Beginning January 1, 2012, it is unlawful for a person or entity to act or assume to act as an appraisal management company as defined in this Act, to engage in the business of appraisal management service, or to advertise or hold himself or herself out to be a registered appraisal management company without first obtaining a registration issued by the Department under this Act. A person or entity that violates this Section is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for second and subsequent offenses.

Persons practicing as an appraisal management company in Illinois as of the effective date of this Act may continue to practice as provided in this Act until the Department has adopted rules implementing this Act. To continue practicing as an appraisal management company after the adoption of rules, persons shall apply for registration within 180 days after the effective date of the rules. If an application is received during the 180-day period, the person may continue to practice until the Department acts to grant or deny registration. If an application is not filed within the 180-day period, the person must cease the practice at the conclusion of the 180-day period and until the Department acts to grant a registration to the person.

Section 25. Powers and duties of the Department. Subject to the provisions of this Act:

(1) The Department may ascertain the qualifications and fitness of applicants for registration and pass upon the qualifications of applicants for registration.

(2) The Department may conduct hearings on proceedings to refuse to issue or renew or to revoke registrations or suspend, place on probation, or reprimand persons or otherwise discipline individuals or entities subject to this Act.

(3) The Department may formulate all rules required for the administration of this Act. With the exception of emergency rules, any proposed rules, amendments, second notice materials, and adopted rule or amendment materials or policy statements concerning appraisal management companies shall be presented to the Real Estate Appraisal Administration and Disciplinary Board for review and comment. The recommendations of the Board shall be presented to the Secretary for consideration in making final decisions.

(4) The Department may maintain rosters of the names and addresses of all registrants, and all persons whose registrations have been suspended, revoked, or denied renewal for cause within the previous calendar year or otherwise disciplined. These rosters shall be available upon written request and payment of the required fee as established by rule.

Section 30. Coordinator of Appraisal Management Company Registration. The Coordinator of Real Estate Appraisal shall serve as the Coordinator of Appraisal Management Company Registration. The Coordinator shall have the same duties and responsibilities in regards to appraisal management company registration as the Coordinator has in regards to appraisal licensure as set forth in the Real Estate Appraiser Licensing Act of 2002.

Section 35. Application for original registration. Applications for original registration shall be made to the Department on forms prescribed by the Department and accompanied by the required fee. All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant to be registered to practice as set by rule.

Section 40. Qualifications for registration.

(a) The Department may issue a certification of registration to practice under this Act to any applicant who applies to the Department on forms provided by the Department, pays the required non-refundable fee, and who provides the following:

(1) the business name of the applicant seeking registration;

(2) the business address or addresses and contact information of the applicant seeking registration;

(3) if the business applicant is not a corporation that is domiciled in this State, then the name and contact information for the company's agent for service of process in this State;

(4) the name, address, and contact information for any individual or any corporation, partnership, limited liability company, association, or other business applicant that owns 10% or more of the appraisal management company;

(5) the name, address, and contact information for a designated controlling person;

(6) a certification that the applicant will utilize Illinois licensed appraisers to provide appraisal services within the State of Illinois;

(7) a certification that the applicant has a system in place utilizing a licensed Illinois appraiser to review the work of all employed and independent appraisers that are performing real estate appraisal services in Illinois for the appraisal management company on a periodic basis, except for a quality control review, to verify that the real estate appraisal assignments are being conducted in accordance with USPAP;

(8) a certification that the applicant maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company;

(9) a certification that the employees of the appraisal management company working on behalf of the appraisal management company directly involved in providing appraisal management services, will be appropriately trained and familiar with the appraisal process to completely provide appraisal management services;

(10) an irrevocable Uniform Consent to Service of Process, under rule; and

(11) a certification that the applicant shall comply with all other requirements of this Act and rules established for the implementation of this Act.

(b) Applicants have 3 years from the date of application to complete the application process. If the

process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 45. Expiration and renewal of registration. The expiration date and renewal period for each registration shall be set by rule. A registrant whose registration has expired may reinstate his or her registration at any time within 5 years after the expiration thereof, by making a renewal application and by paying the required fee.

Any registrant whose registration has expired for more than 5 years may have it restored by making application to the Department, paying the required fee, and filing acceptable proof of fitness to have the registration restored as set by rule.

Section 50. Bonds of registrants. All registrants shall maintain a bond in accordance with this Section. Each bond shall be for the recovery of expenses, fines, or fees due to or levied by the Department in accordance with this Act. The bond shall be payable when the registrant fails to comply with any provisions of this Act and shall be in the form of a surety bond in the amount of $25,000 as prescribed by the Department by rule. The bond shall be payable to the Department and shall be issued by an insurance company authorized to do business in this State. A copy of the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the Department within 10 days of the execution thereof. The bond may only be used for the recovery of expenses or the collection of fines or fees due to or levied by the Department and is not to be utilized for any other purpose.

Section 55. Fees.

(a) The fees for the administration and enforcement of this Act, including, but not limited to, original registration, renewal, and restoration fees, shall be set by the Department by rule. The fees shall not be refundable.

(b) All fees and other moneys collected under this Act shall be deposited in the Appraisal Administration Fund.

Section 60. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unregistered practice or practice on a nonrenewed registration. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days after the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the registration or deny the application, without hearing. If, after termination or denial, the person seeks a registration, he or she shall apply to the Department for restoration or issuance of the registration and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a registration to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Section 65. Disciplinary actions.

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed $25,000 for each violation, with regard to any registration for any one or combination of the following:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act, or of the rules adopted under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining registration or violating any provision of this Act or the rules adopted under this Act pertaining to advertising.

(5) Professional incompetence.

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

(8) Failing, within 30 days after requested, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(11) A finding by the Department that the registrant, after having his or her registration placed on probationary status, has violated the terms of probation.

(12) Willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with State agencies or departments.

(13) Filing false statements for collection of fees for which services are not rendered.

(14) Practicing under a false or, except as provided by law, an assumed name.

(15) Fraud or misrepresentation in applying for, or procuring, a registration under this Act or in connection with applying for renewal of a registration under this Act.

(16) Being adjudicated liable in a civil proceeding for violation of a state or federal fair housing law.

(17) Failure to obtain or maintain the bond required under Section 50 of this Act.

(b) The Department may refuse to issue or may suspend without hearing as provided for in the Civil Administrative Code the registration of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

Section 70. Injunctive action; cease and desist order.

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

Section 75. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render any services requiring registration under this Act or any person holding or claiming to hold a registration as an appraisal management company. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary or non-disciplinary action under Section 65 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her registration may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the registration, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her registration may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting

the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

Section 80. Record of proceedings; transcript. 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 hearing officer, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of the record to any person interested in the hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law.

Section 85. Subpoenas; depositions; oaths. The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

The Secretary and the designated hearing officer have the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

Section 90. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 95. Findings and recommendations. At the conclusion of the hearing, the designated hearing officer shall present to the Secretary a written report of his or her findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make his or her recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, 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 his or her recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation. The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's order refusing to issue, restore, or renew a registration, or otherwise disciplining a registrant. If the Secretary disagrees with the recommendations of the hearing officer, the Secretary may issue an order in contravention of the hearing officer recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

Section 100. Hearing officer; rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant or registrant 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 registrant 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 hearing officer except as provided in Sections 105 or 110 of this Act. If the applicant or registrant 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 registrant.

Section 105. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a registration, or other discipline of an applicant or registrant, he or she may order a rehearing by the same or other hearing officers.

Section 110. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney licensed to practice law in the State to serve as the hearing officer in any action for refusal to issue, restore, or renew a registration or to discipline a registrant. The hearing officer has full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Secretary. If the Secretary disagrees with the recommendation of the hearing officer, the Secretary may issue an order in contravention of the recommendation.

Section 115. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(1) the signature is the genuine signature of the Secretary; and

(2) the Secretary is duly appointed and qualified.

Section 120. Restoration of suspended or revoked registration. At any time after the successful completion of a term of suspension or revocation of a registration, the Department may restore it to the registrant, upon the written recommendation of the hearing officer, unless after an investigation and a hearing the Secretary determines that restoration is not in the public interest.

Section 125. Surrender of registration. Upon the revocation or suspension of a registration, the registrant shall immediately surrender his or her registration to the Department. If the registrant fails to do so, the Department has the right to seize the registration.

Section 130. Summary suspension of a registration. The Secretary may summarily suspend the registration of any registrant under this Act without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 75 of this Act, if the Secretary finds that evidence in the Secretary's possession indicates that the continuation of practice by the registrant would constitute an imminent danger to the public. In the event that the Secretary summarily suspends the registration of a registrant under this Section without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical.

Section 135. Administrative review; venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

Section 140. Certifications of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Section 145. Violations. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator is guilty of a Class 4 felony.

Section 150. Civil penalties.

(a) In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed $25,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act.

(b) The Department has the authority and power to investigate any and all unregistered activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the

civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) All moneys collected under this Section shall be deposited into the Appraisal Administration Fund.

Section 155. Consent order. At any point in the proceedings as provided in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

Section 160. Business practice provisions; standards of practice.

(a) The Department may adopt by rule the Uniform Standards of Professional Appraisal Practice as published from time to time by the Appraisal Standards Board of the Appraisal Foundation. Appraisal management companies shall not interfere with adherence to the Uniform Standards of Professional Appraisal Practice or the Real Estate Appraiser Act of 2002 or a subsequent Act by individuals licensed under the respective Acts.

(b) All payment policies from registrants under this Act to appraisers shall be written and definitive in nature.

(c) In the event of a value dispute or a requested reconsideration of value, the appraisal management company shall deliver all information that supports an increase or decrease in value to the appraiser. This information may include, but is not limited to, additional comparable sales.

(d) Each entity registered under this Act shall designate a controlling person who is responsible to assure that the company operates in compliance with this Act. The company shall file a form provided by the Department indicating the company's designation of the controlling person and such individual's acceptance of the responsibility. A registrant shall notify the Department of any change in its controlling person within 30 days. Any registrant who does not comply with this subsection (d) shall have its registration suspended under the provisions set forth in this Act until the registrant complies with this Section. Any individual registrant who operates as a sole proprietorship shall be considered a designated controlling person for the purposes of this Act.

(e) Appraisal management companies or employees of an appraisal management company involved in a real estate transaction who have a reasonable basis to believe that an appraiser involved in the preparation of an appraisal for the real estate transaction has failed to comply with the Uniform Standards of Professional Appraisal Practice, has violated this Act or its rules, or has otherwise engaged in unethical conduct shall report the matter to the Department. Any registrant, employee, or individual acting on behalf of a registrant, acting in good faith, and not in a willful and wanton manner, in complying with this Act by reporting the conduct to the Department shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(f) Appraisal management companies are required to be in compliance with the appraisal independence standards established under Section 129E of the federal Truth in Lending Act, including the requirement that fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer. The Department shall formulate rules pertaining to customary and reasonable rates of compensation for complex assignments consistent with the Final Interim Rule or other rule of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The appraisal management company must certify to the Department that it has policies and procedures in place to be in compliance, however, the Department may not adopt rules or policies that contradict or change the presumptions of compliance as established under the Final Interim Rule of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

(g) No appraisal management company procuring or facilitating an appraisal may have a direct or indirect interest, financial or otherwise, in the real estate or the transaction that is the subject of the appraisal, as defined by the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, any amendments thereto, or successor acts or other applicable provisions of federal law or regulations.

Section 165. Prohibited activities.

(a) No person or entity acting in the capacity of an appraisal management company shall improperly influence or attempt to improperly influence the development, reporting, result, or review of any appraisal by engaging, without limitation, in any of the following:

(1) Withholding or threatening to withhold timely payment for a completed appraisal, except where addressed in a mutually agreed upon contract.

(2) Withholding or threatening to withhold, either expressed or by implication, future business from, or demoting, or terminating, or threatening to demote or terminate an Illinois licensed or certified appraiser.

(3) Expressly or impliedly promising future business, promotions, or increased compensation for an independent appraiser.

(4) Conditioning an assignment for an appraisal service or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached in an appraisal report.

(5) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or sales at any time prior to the appraiser's completion of an appraisal report.

(6) Allowing or directing the removal of an appraiser from an appraisal panel without prior written notice to the appraiser.

(7) Requiring an appraiser to sign a non-compete clause when not an employee of the entity.

(8) Requiring an appraiser to sign any sort of indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(9) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity within the body of the appraisal report.

(10) Require an appraiser to collect a fee from the borrower or occupant of the property to be appraised.

(11) Knowingly withholding any end-user client guidelines, policies, requirements, standards, assignment conditions, and special instructions from an appraiser prior to the acceptance of an appraisal assignment.

(b) A person or entity may not structure an appraisal assignment or a contract with an independent appraiser for the purpose of evading the provisions of this Act.

(c) No registrant or other person or entity may alter, modify, or otherwise change a completed appraisal report submitted by an independent appraiser, including without limitation, by doing either of the following:

(1) permanently or temporarily removing the appraiser's signature or seal; or

(2) adding information to, or removing information from, the appraisal report with an intent to change the value conclusion or the condition of the property.

(d) No appraisal management company may require an appraiser to provide it with the appraiser's digital signature or seal. However, nothing in this Act shall be deemed to prohibit an appraiser from voluntarily providing his or her digital signature or seal to another person on an assignment-by-assignment basis, in accordance with USPAP.

(e) Nothing in this Act shall prohibit an appraisal management company from requesting that an appraiser:

(1) consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;

(2) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(3) correct factual errors in the appraisal report.

Section 170. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

Section 175. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative

Procedure Act, which provides that at hearings the registrant has the right to show compliance with all lawful requirements for retention or continuation or renewal of the registration, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the last known address of a party.

Section 180. Home rule. The regulation and registration of practice as an appraisal management company are exclusive powers and functions of the State. A home rule unit may not regulate the practice or require the registration as an appraisal management company. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

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

Senate Committee Amendment No. 2 was tabled in the Committee on Licensed Activities.

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

JOINT ACTION MOTION FILED

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

Motion to Concur in House Amendment 3 to Senate Bill 4

ANNOUNCEMENT

President Cullerton announced that Session scheduled for Friday, April 1, 2011, has been cancelled.

At the hour of 1:02 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 3:54 o'clock p.m., the Senate resumed consideration of business.

Senator Lightford presiding.

REPORTS FROM STANDING COMMITTEES

Senator Delgado, Chairperson of the Committee on Public Health, to which was referred **Senate Bills Numbered 1329, 1353 and 1999,** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

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

Senate Amendment No. 3 to Senate Bill 1294
Senate Amendment No. 1 to Senate Bill 1372

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

Senator Harmon, Chairperson of the Committee on Executive, to which was referred **Senate Bill No. 1147,** 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 Harmon, Chairperson of the Committee on Executive, to which was referred **House Bill No. 1030,** 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 Harmon, Chairperson of the Committee on Executive, to which was referred **Senate Resolution No. 118,** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 118** was placed on the Secretary's Desk.

Senator Harmon, 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. 3 to Senate Bill 541
Senate Amendment No. 2 to Senate Bill 1435
Senate Amendment No. 1 to Senate Bill 1992

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

Senator Hutchinson, Chairperson of the Committee on Revenue, to which was referred **Senate Bill No. 1566,** 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 Hutchinson, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2168

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

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committees to meet on March 30, 2011, at 9:46 o'clock a.m.:

Labor in Room 212
Commerce in Room 409

The Chair announced the following committee to meet on March 30, 2011, at 11:16 o'clock a.m.:

State Government and Veterans Affairs in Room 409

The Chair announced the following committee to meet on March 30, 2011, at 12:00 o'clock p.m.:

Revenue in Room 400

READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator J. Jones, as chief co-sponsor and pursuant to Senate Rule 5-1(b)(ii), **House Bill No. 1030** having been printed, was taken up and read by title a second time.

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

AMENDMENT NO. 1 TO HOUSE BILL 1030

AMENDMENT NO. 1. Amend House Bill 1030 by replacing everything after the enacting clause with the following:

"Section 5. The Unemployment Insurance Act is amended by changing Sections 235, 403, 409, 1506.3, and 2100 and by adding Sections 1506.5, and 2108 as follows:

(820 ILCS 405/235) (from Ch. 48, par. 345)

Sec. 235. The term "wages" does not include:

A. With respect to calendar years prior to calendar year 2004, the maximum amount includable as "wages" shall be determined pursuant to this Section as in effect on January 1, 2006. ~~That part of the remuneration which, after remuneration equal to $6,000 with respect to employment has been paid to an individual by an employer during any calendar year after 1977 and before 1980, is paid to such individual by such employer during such calendar year; and that part of the remuneration which, after remuneration equal to $6,500 with respect to employment has been paid to an individual by an employer during each calendar year 1980 and 1981, is paid to such individual by such employer during that calendar year; and that part of the remuneration which, after remuneration equal to $7,000 with respect to employment has been paid to an individual by an employer during the calendar year 1982 is paid to such individual by such employer during that calendar year.~~

~~With respect to the first calendar quarter of 1983, the term "wages" shall include only the remuneration paid to an individual by an employer during such quarter with respect to employment which does not exceed $7,000. With respect to the three calendar quarters, beginning April 1, 1983, the term "wages" shall include only the remuneration paid to an individual by an employer during such period with respect to employment which when added to the "wages" (as defined in the preceding sentence) paid to such individual by such employer during the first calendar quarter of 1983, does not exceed $8,000.~~

~~With respect to the calendar year 1984, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed $8,000; with respect to calendar years 1985, 1986 and 1987, the term "wages" shall include only the remuneration paid to such individual by such employer during that calendar year with respect to employment which does not exceed $8,500.~~

~~With respect to the calendar years 1988 through 2003, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed $9,000.~~

With respect to the calendar year 2004, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed $9,800. With respect to the calendar years 2005 through 2009, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed the following amounts: $10,500 with respect to the calendar year 2005; $11,000 with respect to the calendar year 2006; $11,500 with respect to the calendar year 2007; $12,000 with respect to the calendar year 2008; and $12,300 with respect to the calendar year 2009.

Except as otherwise provided in subsection A-1, with ~~With~~ respect to the calendar years ~~year~~ 2010 , 2011, 2013, and each calendar year thereafter, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed the sum of the wage base adjustment applicable to that year pursuant to Section 1400.1, plus the maximum amount includable as "wages" pursuant to this subsection with respect to the immediately preceding calendar year; for purposes of this sentence, the maximum amount includable as "wages" with respect to calendar year 2013 shall be calculated as though the maximum amount includable as "wages" with respect to calendar year 2012 had been calculated pursuant to this sentence. With respect to calendar year 2012, to offset the loss of revenue to the State's account in the unemployment trust fund with respect to the first quarter of calendar year 2011 as a result of Section 1506.5 and the changes made by this amendatory Act of the 97th General Assembly to Section 1506.3, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed $13,560. Notwithstanding any provision to the contrary, the maximum amount includable as "wages" pursuant to this Section shall not be less than $12,300 or greater than $12,960 with respect to any calendar year after calendar year 2009 except calendar year 2012 and except as otherwise provided in subsection A-1.

The remuneration paid to an individual by an employer with respect to employment in another State or States, upon which contributions were required of such employer under an unemployment compensation

law of such other State or States, shall be included as a part of the remuneration herein referred to. For the purposes of this subsection, any employing unit which succeeds to the organization, trade, or business, or to substantially all of the assets of another employing unit, or to the organization, trade, or business, or to substantially all of the assets of a distinct severable portion of another employing unit, shall be treated as a single unit with its predecessor for the calendar year in which such succession occurs; any employing unit which is owned or controlled by the same interests which own or control another employing unit shall be treated as a single unit with the unit so owned or controlled by such interests for any calendar year throughout which such ownership or control exists; and, with respect to any trade or business transfer subject to subsection A of Section 1507.1, a transferee, as defined in subsection G of Section 1507.1, shall be treated as a single unit with the transferor, as defined in subsection G of Section 1507.1, for the calendar year in which the transfer occurs. This subsection applies only to Sections 1400, 1405A, and 1500.

A-1. If, by March 1, 2013, the payments attributable to the changes to subsection A by this or any subsequent amendatory Act of the 97th General Assembly do not equal or exceed the loss to this State's account in the unemployment trust fund as a result of Section 1506.5 and the changes made to Section 1506.3 by this or any subsequent amendatory Act of the 97th General Assembly, including unrealized interest, then, with respect to calendar year 2013, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed $13,560. For purposes of subsection A, if the maximum amount includable as "wages" with respect to calendar year 2013 is $13,560, the maximum amount includable as "wages" with respect to calendar year 2014 shall be calculated as though the maximum amount includable as "wages" with respect to calendar year 2013 had been calculated pursuant to subsection A, without regard to this Section.

B. The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing services for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (1) sickness or accident disability (except those sickness or accident disability payments which would be includable as "wages" in Section 3306(b)(2)(A) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985, such includable payments to be attributable in such manner as provided by Section 3306(b) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985), or (2) medical or hospitalization expenses in connection with sickness or accident disability, or (3) death.

C. Any payment made to, or on behalf of, an employee or his beneficiary which would be excluded from "wages" by subparagraph (A), (B), (C), (D), (E), (F) or (G), of Section 3306(b)(5) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985.

D. The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual performing services for him after the expiration of six calendar months following the last calendar month in which the individual performed services for such employer.

E. Remuneration paid in any medium other than cash by an employing unit to an individual for service in agricultural labor as defined in Section 214.

F. The amount of any supplemental payment made by an employer to an individual performing services for him, other than remuneration for services performed, under a shared work plan approved by the Director pursuant to Section 407.1.

(Source: P.A. 93-634, eff. 1-1-04; 93-676, eff. 6-22-04; 94-301, eff. 1-1-06.)

(820 ILCS 405/403) (from Ch. 48, par. 403)

Sec. 403. Maximum total amount of benefits.) A. With respect to any benefit year beginning prior to September 30, 1979, any otherwise eligible individual shall be entitled, during such benefit year, to a maximum total amount of benefits as shall be determined in the manner set forth in this Act as amended and in effect on November 9, 1977.

B. With respect to any benefit year beginning on or after September 30, 1979, except as otherwise provided in this Section, any otherwise eligible individual shall be entitled, during such benefit year, to a maximum total amount of benefits equal to 26 times his or her weekly benefit amount plus dependents' ~~dependents~~ allowances, or to the total wages for insured work paid to such individual during the individual's base period, whichever amount is smaller. With respect to any benefit year beginning in calendar year 2012, any otherwise eligible individual shall be entitled, during such benefit year, to a maximum total amount of benefits equal to 25 times his or her weekly benefit amount plus dependents'

allowances, or to the total wages for insured work paid to such individual during the individual's base period, whichever amount is smaller. If the maximum amount includable as "wages" pursuant to Section 235 is $13,560 with respect to calendar year 2013, then, with respect to any benefit year beginning after March 31, 2013 and before April 1, 2014, any otherwise eligible individual shall be entitled, during such benefit year, to a maximum total amount of benefits equal to 25 times his or her weekly benefit amount plus dependents allowances, or to the total wages for insured work paid to such individual during the individual's base period, whichever amount is smaller.

(Source: P.A. 81-962.)

(820 ILCS 405/409) (from Ch. 48, par. 409)

Sec. 409. Extended Benefits.

A. For the purposes of this Section:

1. "Extended benefit period" means a period which begins with the third week after a week for which there is a State "on" indicator; and ends with either of the following weeks, whichever occurs later: (1) the third week after the first week for which there is a State "off" indicator, or (2) the thirteenth consecutive week of such period. No extended benefit period shall begin by reason of a State "on" indicator before the fourteenth week following the end of a prior extended benefit period.

2. There is a "State 'on' indicator" for a week if (a) the Director determines, in accordance with the regulations of the United States Secretary of Labor or other appropriate Federal agency, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) in this State (1) equaled or exceeded 5% and equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, or (2) equaled or exceeded 6 percent, or (b) the United States Secretary of Labor determines that (1) the average rate of total unemployment in this State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all states are published before the close of such week equals or exceeds 6.5%, and (2) the average rate of total unemployment in this State (seasonally adjusted) for the 3-month period referred to in (1) equals or exceeds 110% of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years. Clause (b) of this paragraph shall only apply to weeks beginning on or after February 22, 2009, through the end of the fourth week ~~ending 3 weeks~~ prior to the last week for which federal sharing is provided as authorized by Section 2005(a) of Public Law 111-5 without regard to Section 2005(c) of Public Law 111-5 and is inoperative as of the end of the last week for which federal sharing is provided as authorized by Section 2005(a) of Public Law 111-5.

2.1. With respect to benefits for weeks of unemployment beginning after December 17, 2010, and ending on or before the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided as authorized by Section 2005(a) of Public Law 111-5 without regard to Section 2005(c) of Public Law 111-5, the determination of whether there has been a State "on" indicator pursuant to paragraph 2 shall be made as if, in clause (a) of paragraph 2, the phrase "2 calendar years" were "3 calendar years" and as if, in clause (b) of paragraph 2, the word "either" were "any", the word "both" were "all", and the phrase "2 preceding calendar years" were "3 preceding calendar years".

3. There is a "State 'off' indicator" for a week if there is not a State 'on' indicator for the week pursuant to paragraph 2.

4. "Rate of insured unemployment", for the purpose of paragraph 2, means the percentage derived by dividing (a) the average weekly number of individuals filing claims for "regular benefits" in this State for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the Director on the basis of his reports to the United States Secretary of Labor or other appropriate Federal agency, by (b) the average monthly employment covered under this Act for the first four of the most recent six completed calendar quarters ending before the close of such 13-week period.

5. "Regular benefits" means benefits, other than extended benefits and additional benefits, payable to an individual (including dependents' allowances) under this Act or under any other State unemployment compensation law (including benefits payable to Federal civilian employees and ex-servicemen pursuant to 5 U.S.C. chapter 85).

6. "Extended benefits" means benefits (including benefits payable to Federal civilian employees and ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this Section for weeks which begin in his eligibility period.

7. "Additional benefits" means benefits totally financed by a State and payable to exhaustees (as defined in subsection C) by reason of conditions of high unemployment or by reason of other specified factors. If an individual is eligible to receive extended benefits under the provisions of

this Section and is eligible to receive additional benefits with respect to the same week under the law of another State, he may elect to claim either extended benefits or additional benefits with respect to the week.

8. "Eligibility period" means the period consisting of the weeks in an individual's benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. An individual's eligibility period shall also include such other weeks as federal law may allow.

9. Notwithstanding any other provision to the contrary, no employer shall be liable for payments in lieu of contributions pursuant to Section 1404, by reason of the payment of extended benefits which are wholly reimbursed to this State by the Federal Government or would have been wholly reimbursed to this State by the Federal Government if the employer had paid all of the claimant's wages during the applicable base period. Extended benefits shall not become benefit charges under Section 1501.1 if they are wholly reimbursed to this State by the Federal Government or would have been wholly reimbursed to this State by the Federal Government if the employer had paid all of the claimant's wages during the applicable base period. For purposes of this paragraph, extended benefits will be considered to be wholly reimbursed by the Federal Government notwithstanding the operation of Section 204(a)(2)(D) of the Federal-State Extended Unemployment Compensation Act of 1970.

B. An individual shall be eligible to receive extended benefits pursuant to this Section for any week which begins in his eligibility period if, with respect to such week (1) he has been paid wages for insured work during his base period equal to at least 1 1/2 times the wages paid in that calendar quarter of his base period in which such wages were highest; (2) he has met the requirements of Section 500E of this Act; (3) he is an exhaustee; and (4) except when the result would be inconsistent with the provisions of this Section, he has satisfied the requirements of this Act for the receipt of regular benefits.

C. An individual is an exhaustee with respect to a week which begins in his eligibility period if:

1. Prior to such week (a) he has received, with respect to his current benefit year that includes such week, the maximum total amount of benefits to which he was entitled under the provisions of Section 403B, and all of the regular benefits (including dependents' allowances) to which he had entitlement (if any) on the basis of wages or employment under any other State unemployment compensation law; or (b) he has received all the regular benefits available to him with respect to his current benefit year that includes such week, under this Act and under any other State unemployment compensation law, after a cancellation of some or all of his wage credits or the partial or total reduction of his regular benefit rights; or (c) his benefit year terminated, and he cannot meet the qualifying wage requirements of Section 500E of this Act or the qualifying wage or employment requirements of any other State unemployment compensation law to establish a new benefit year which would include such week or, having established a new benefit year that includes such week, he is ineligible for regular benefits by reason of Section 607 of this Act or a like provision of any other State unemployment compensation law; and

2. For such week (a) he has no right to benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, or such other Federal laws as are specified in regulations of the United States Secretary of Labor or other appropriate Federal agency; and (b) he has not received and is not seeking benefits under the unemployment compensation law of Canada, except that if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, this clause shall not apply.

3. For the purposes of clauses (a) and (b) of paragraph 1 of this subsection, an individual shall be deemed to have received, with respect to his current benefit year, the maximum total amount of benefits to which he was entitled or all of the regular benefits to which he had entitlement, or all of the regular benefits available to him, as the case may be, even though (a) as a result of a pending reconsideration or appeal with respect to the "finding" defined in Section 701, or of a pending appeal with respect to wages or employment or both under any other State unemployment compensation law, he may subsequently be determined to be entitled to more regular benefits; or (b) by reason of a seasonality provision in a State unemployment compensation law which establishes the weeks of the year for which regular benefits may be paid to individuals on the basis of wages in seasonal employment he may be entitled to regular benefits for future weeks but such benefits are not payable with respect to the week for which he is claiming extended benefits, provided that he is otherwise an exhaustee under the provisions of this subsection with respect to his rights to regular benefits, under such seasonality provision, during the portion of the year in which that week occurs; or (c) having established a benefit year, no regular benefits are payable to him with respect to such year because his wage credits were cancelled or his rights to regular benefits were totally reduced by

reason of the application of a disqualification provision of a State unemployment compensation law.

D. 1. The provisions of Section 607 and the waiting period requirements of Section 500D shall not be applicable to any week with respect to which benefits are otherwise payable under this Section.

2. An individual shall not cease to be an exhaustee with respect to any week solely because he meets the qualifying wage requirements of Section 500E for a part of such week.

E. With respect to any week which begins in his eligibility period, an exhaustee's "weekly extended benefit amount" shall be the same as his weekly benefit amount during his benefit year which includes such week or, if such week is not in a benefit year, during his applicable benefit year, as defined in regulations issued by the United States Secretary of Labor or other appropriate Federal agency. If the exhaustee had more than one weekly benefit amount during his benefit year, his weekly extended benefit amount with respect to such week shall be the latest of such weekly benefit amounts.

F. 1. An eligible exhaustee shall be entitled, during any eligibility period, to a maximum total amount of extended benefits equal to the lesser of the following amounts:

a. Fifty percent of the maximum total amount of benefits to which he was entitled under Section 403B during his applicable benefit year;

b. Thirteen times his weekly extended benefit amount as determined under subsection E;

or

c. Thirty-nine times his or her average weekly extended benefit amount, reduced by the regular benefits (not including any dependents' allowances) paid to him or her during such benefit year.

2. An eligible exhaustee shall be entitled, during a "high unemployment period", to a maximum total amount of extended benefits equal to the lesser of the following amounts:

a. Eighty percent of the maximum total amount of benefits to which he or she was entitled under Section 403B during his or her applicable benefit year;

b. Twenty times his or her weekly extended benefit amount as determined under subsection E; or

c. Forty-six times his or her average weekly extended benefit amount, reduced by the regular benefits (not including any dependents' allowances) paid to him or her during such benefit year.

For purposes of this paragraph, the term "high unemployment period" means any period during which (i) clause (b) of paragraph (2) of subsection A is operative and (ii) an extended benefit period would be in effect if clause (b) of paragraph (2) of subsection A of this Section were applied by substituting "8%" for "6.5%".

3. Notwithstanding paragraphs 1 and 2 of this subsection F, and if the benefit year of an individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this subsection F, be otherwise entitled to receive in that extended benefit period, for weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances as defined in the federal Trade Act of 1974 within that benefit year multiplied by his weekly benefit amount for extended benefits.

G. 1. A claims adjudicator shall examine the first claim filed by an individual with respect to his eligibility period and, on the basis of the information in his possession, shall make an "extended benefits finding". Such finding shall state whether or not the individual has met the requirement of subsection B(1), is an exhaustee and, if he is, his weekly extended benefit amount and the maximum total amount of extended benefits to which he is entitled. The claims adjudicator shall promptly notify the individual of his "extended benefits finding", and shall promptly notify the individual's most recent employing unit and the individual's last employer (referred to in Section 1502.1) that the individual has filed a claim for extended benefits. The claims adjudicator may reconsider his "extended benefits finding" at any time within one year after the close of the individual's eligibility period, and shall promptly notify the individual of such reconsidered finding. All of the provisions of this Act applicable to reviews from findings or reconsidered findings made pursuant to Sections 701 and 703 which are not inconsistent with the provisions of this subsection shall be applicable to reviews from extended benefits findings and reconsidered extended benefits findings.

2. If, pursuant to the reconsideration or appeal with respect to a "finding", referred to in paragraph 3 of subsection C, an exhaustee is found to be entitled to more regular benefits and, by reason thereof, is entitled to more extended benefits, the claims adjudicator shall make a reconsidered extended benefits finding and shall promptly notify the exhaustee thereof.

H. Whenever an extended benefit period is to begin in this State because there is a State "on"

indicator, or whenever an extended benefit period is to end in this State because there is a State "off" indicator, the Director shall make an appropriate public announcement.

I. Computations required by the provisions of paragraph 4 of subsection A shall be made by the Director in accordance with regulations prescribed by the United States Secretary of Labor, or other appropriate Federal agency.

J. 1. Interstate Benefit Payment Plan means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

2. An individual who commutes from his state of residence to work in another state and continues to reside in such state of residence while filing his claim for unemployment insurance under this Section of the Act shall not be considered filing a claim under the Interstate Benefit Payment Plan so long as he files his claim in and continues to report to the employment office under the regulations applicable to intrastate claimants in the state in which he was so employed.

3. "State" when used in this subsection includes States of the United States of America, the District of Columbia, Puerto Rico and the Virgin Islands. For purposes of this subsection, the term "state" shall also be construed to include Canada.

4. Notwithstanding any other provision of this Act, an individual shall be eligible for a maximum of 2 weeks of benefits payable under this Section after he files his initial claim for extended benefits in an extended benefit period, as defined in paragraph 1 of subsection A, under the Interstate Benefit Payment Plan unless there also exists an extended benefit period, as defined in paragraph 1 of subsection A, in the state where such claim is filed. Such maximum eligibility shall continue as long as the individual continues to file his claim under the Interstate Benefit Payment Plan, notwithstanding that the individual moves to another state where an extended benefit period exists and files for weeks prior to his initial Interstate claim in that state.

5. To assure full tax credit to the employers of this state against the tax imposed by the Federal Unemployment Tax Act, the Director shall take any action or issue any regulations necessary in the administration of this subsection to insure that its provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the United States Secretary of Labor or other appropriate Federal agency.

K. 1. Notwithstanding any other provisions of this Act, an individual shall be ineligible for the payment of extended benefits for any week of unemployment in his eligibility period if the Director finds that during such period:

a. he failed to accept any offer of suitable work (as defined in paragraph 3 below) or failed to apply for any suitable work to which he was referred by the Director; or

b. he failed to actively engage in seeking work as prescribed under paragraph 5 below.

2. Any individual who has been found ineligible for extended benefits by reason of the provisions of paragraph 1 of this subsection shall be denied benefits beginning with the first day of the week in which such failure has occurred and until he has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned remuneration equal to at least 4 times his weekly benefit amount.

3. For purposes of this subsection only, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities, provided, however, that the gross average weekly remuneration payable for the work:

a. must exceed the sum of (i) the individual's extended weekly benefit amount as determined under subsection E above plus (ii) the amount, if any, of supplemental unemployment benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; and further,

b. is not less than the higher of --

(i) the minimum wage provided by Section 6 (a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(ii) the applicable state or local minimum wage;

c. provided, however, that no individual shall be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability as described above if:

(i) the position was not offered to such individual in writing or was not listed with the employment service;

(ii) such failure could not result in a denial of benefits under the definition of suitable work for regular benefits claimants in Section 603 to the extent that the criteria of

suitability in that Section are not inconsistent with the provisions of this paragraph 3;

(iii) the individual furnishes satisfactory evidence to the Director that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work for regular benefits in Section 603 without regard to the definition specified by this paragraph.

4. Notwithstanding the provisions of paragraph 3 to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by Section 3304(a)(5) of the Internal Revenue Code of 1954 and set forth herein under Section 603 of this Act.

5. For the purposes of subparagraph b of paragraph 1, an individual shall be treated as actively engaged in seeking work during any week if --

a. the individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. the individual furnishes tangible evidence that he has engaged in such effort during such week.

6. The employment service shall refer any individual entitled to extended benefits under this Act to any suitable work which meets the criteria prescribed in paragraph 3.

7. Notwithstanding any other provision of this Act, an individual shall not be eligible to receive extended benefits, otherwise payable under this Section, with respect to any week of unemployment in his eligibility period if such individual has been held ineligible for benefits under the provisions of Sections 601, 602 or 603 of this Act until such individual had requalified for such benefits by returning to employment and satisfying the monetary requalification provision by earning at least his weekly benefit amount.

L. The Governor may, if federal law so allows, elect, in writing, to pay individuals, otherwise eligible for extended benefits pursuant to this Section, any other federally funded unemployment benefits, including but not limited to benefits payable pursuant to the federal Supplemental Appropriations Act, 2008, as amended, prior to paying them benefits under this Section.

M. The provisions of this Section, as revised by this amendatory Act of the 96th General Assembly, are retroactive to February 22, 2009. The provisions of this amendatory Act of the 96th General Assembly with regard to subsection L and paragraph 8 of subsection A clarify authority already provided.

(Source: P.A. 96-30, eff. 6-30-09.)

(820 ILCS 405/1506.3) (from Ch. 48, par. 576.3)

Sec. 1506.3. Fund building rates - Temporary Administrative Funding.

A. Notwithstanding any other provision of this Act, the following fund building rates shall be in effect for the following calendar years:

For each employer whose contribution rate for 1988, 1989, 1990, the first, third, and fourth quarters of 1991, 1992, 1993, 1994, 1995, and 1997 through 2003 would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and a fund building rate of 0.4%;

For each employer whose contribution rate for the second quarter of 1991 would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and 0.3%;

For each employer whose contribution rate for 1996 would, in the absence of this Section, be 0.1% or higher, a contribution rate which is the sum of such rate and 0.4%;

For each employer whose contribution rate for 2004 through 2009 would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and the following: a fund building rate of 0.7% for 2004; a fund building rate of 0.9% for 2005; a fund building rate of 0.8% for 2006 and 2007; a fund building rate of 0.6% for 2008; a fund building rate of 0.4% for 2009.

For each employer whose contribution rate for 2010 and any calendar year thereafter would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and a fund building rate equal to the sum of the rate adjustment applicable to that year pursuant to Section 1400.1, plus the fund building rate in effect pursuant to this Section for the immediately preceding calendar year. Notwithstanding any provision to the contrary, the fund building rate in effect for any calendar year after calendar year 2009 shall not be less than 0.4% or greater than 0.55%. Notwithstanding any other provision to the contrary, the fund building rate established pursuant to this Section shall not apply with respect to the first quarter of calendar year 2011. The changes made to Section 235 by this amendatory Act of the 97th General Assembly are intended to offset the loss of revenue to the State's account in the unemployment trust fund with respect to the first quarter of calendar year 2011 as a result of Section

1506.5 and the changes made to this Section by this amendatory Act of the 97th General Assembly.

Notwithstanding the preceding paragraphs of this Section or any other provision of this Act, except for the provisions contained in Section 1500 pertaining to rates applicable to employers classified under the Standard Industrial Code, or another classification system sanctioned by the United States Department of Labor and prescribed by the Director by rule, no employer whose total wages for insured work paid by him during any calendar quarter in 1988 and any calendar year thereafter are less than $50,000 shall pay contributions at a rate with respect to such quarter which exceeds the following: with respect to calendar year 1988, 5%; with respect to 1989 and any calendar year thereafter, 5.4%, plus any penalty contribution rate calculated pursuant to subsection C of Section 1507.1.

Notwithstanding the preceding paragraph of this Section, or any other provision of this Act, no employer's contribution rate with respect to calendar years 1993 through 1995 shall exceed 5.4% if the employer ceased operations at an Illinois manufacturing facility in 1991 and remained closed at that facility during all of 1992, and the employer in 1993 commits to invest at least $5,000,000 for the purpose of resuming operations at that facility, and the employer rehires during 1993 at least 250 of the individuals employed by it at that facility during the one year period prior to the cessation of its operations, provided that, within 30 days after the effective date of this amendatory Act of 1993, the employer makes application to the Department to have the provisions of this paragraph apply to it. The immediately preceding sentence shall be null and void with respect to an employer which by December 31, 1993 has not satisfied the rehiring requirement specified by this paragraph or which by December 31, 1994 has not made the investment specified by this paragraph. All payments attributable to the fund building rate established pursuant to this Section with respect to the fourth quarter of calendar year 2003, the first quarter of calendar year 2004 and any calendar quarter thereafter as of the close of which there are either bond obligations outstanding pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, or bond obligations anticipated to be outstanding as of either or both of the 2 immediately succeeding calendar quarters, shall be directed for deposit into the Master Bond Fund. Notwithstanding any other provision of this subsection, no fund building rate shall be added to any penalty contribution rate assessed pursuant to subsection C of Section 1507.1.

B. Notwithstanding any other provision of this Act, for the second quarter of 1991, the contribution rate of each employer as determined in accordance with Sections 1500, 1506.1, and subsection A of this Section shall be equal to the sum of such rate and 0.1%; provided that this subsection shall not apply to any employer whose rate computed under Section 1506.1 for such quarter is between 5.1% and 5.3%, inclusive, and who qualifies for the 5.4% rate ceiling imposed by the last paragraph of subsection A for such quarter. All payments made pursuant to this subsection shall be deposited in the Employment Security Administrative Fund established under Section 2103.1 and used for the administration of this Act.

C. Payments received by the Director which are insufficient to pay the total contributions due under the Act shall be first applied to satisfy the amount due pursuant to subsection B.

C-1. Payments received by the Director with respect to the fourth quarter of calendar year 2003, the first quarter of calendar year 2004 and any calendar quarter thereafter as of the close of which there are either bond obligations outstanding pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, or bond obligations anticipated to be outstanding as of either or both of the 2 immediately succeeding calendar quarters, shall, to the extent they are insufficient to pay the total amount due under the Act with respect to the quarter, be first applied to satisfy the amount due with respect to that quarter and attributable to the fund building rate established pursuant to this Section. Notwithstanding any other provision to the contrary, with respect to an employer whose contribution rate with respect to a quarter subject to this subsection would have exceeded 5.4% but for the 5.4% rate ceiling imposed pursuant to subsection A, the amount due from the employer with respect to that quarter and attributable to the fund building rate established pursuant to subsection A shall equal the amount, if any, by which the amount due and attributable to the 5.4% rate exceeds the amount that would have been due and attributable to the employer's rate determined pursuant to Sections 1500 and 1506.1, without regard to the fund building rate established pursuant to subsection A.

D. All provisions of this Act applicable to the collection or refund of any contribution due under this Act shall be applicable to the collection or refund of amounts due pursuant to subsection B and amounts directed pursuant to this Section for deposit into the Master Bond Fund to the extent they would not otherwise be considered as contributions.

(Source: P.A. 93-634, eff. 1-1-04; 94-301, eff. 1-1-06.)

(820 ILCS 405/1506.5 new)

Sec. 1506.5. Surcharge; specified period. With respect to the first quarter of calendar year 2011, each employer shall pay a surcharge equal to 0.5% of the total wages for insured work subject to the payment

of contributions under Sections 234, 235, and 245. The surcharge established by this Section shall be due at the same time as contributions with respect to the first quarter of calendar year 2011 are due, as provided in Section 1400. Notwithstanding any other provision to the contrary, with respect to an employer whose contribution rate with respect to the first quarter of calendar year 2011, calculated without regard to this amendatory Act of the 97th General Assembly, would have exceeded 5.4% but for the 5.4% rate ceiling imposed pursuant to subsection A of Section 1506.3, the amount due from the employer with respect to that quarter and attributable to the surcharge established pursuant to this Section shall equal the amount, if any, by which the amount due and attributable to the 5.4% rate exceeds the amount that would have been due and attributable to the employer's rate determined pursuant to Sections 1500 and 1506.1. Payments received by the Director with respect to the first quarter of calendar year 2011 shall, to the extent they are insufficient to pay the total amount due under the Act with respect to the quarter, be first applied to satisfy the amount due with respect to that quarter and attributable to the surcharge established pursuant to this Section. All provisions of this Act applicable to the collection or refund of any contribution due under this Act shall be applicable to the collection or refund of amounts due pursuant to this Section. Interest shall accrue with respect to amounts due pursuant to this Section to the same extent and under the same terms and conditions as provided by Section 1401 with respect to contributions. The changes made to Section 235 by this amendatory Act of the 97th General Assembly are intended to offset the loss of revenue to the State's account in the unemployment trust fund with respect to the first quarter of calendar year 2011 as a result of this Section 1506.5 and the changes made to Section 1506.3 by this amendatory Act of the 97th General Assembly.

(820 ILCS 405/2100) (from Ch. 48, par. 660)

Sec. 2100. Handling of funds - Bond - Accounts.

A. All contributions and payments in lieu of contributions collected under this Act, including but not limited to fund building receipts and receipts attributable to the surcharge established pursuant to Section 1506.5, together with any interest thereon; all penalties collected pursuant to this Act; any property or securities acquired through the use thereof; all moneys advanced to this State's account in the unemployment trust fund pursuant to the provisions of Title XII of the Social Security Act, as amended; all moneys directed for transfer from the Master Bond Fund or the Title XII Interest Fund to this State's account in the unemployment trust fund; all moneys received from the Federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; all moneys credited to this State's account in the unemployment trust fund pursuant to Section 903 of the Federal Social Security Act, as amended; and all earnings of such property or securities and any interest earned upon any such moneys shall be paid or turned over to and held by the Director, as ex-officio custodian of the clearing account, the unemployment trust fund account and the benefit account, and by the State Treasurer, as ex-officio custodian of the special administrative account, separate and apart from all public moneys or funds of this State, as hereinafter provided. Such moneys shall be administered by the Director exclusively for the purposes of this Act.

No such moneys shall be paid or expended except upon the direction of the Director in accordance with such regulations as he shall prescribe pursuant to the provisions of this Act.

The State Treasurer shall be liable on his general official bond for the faithful performance of his duties in connection with the moneys in the special administrative account provided for under this Act. Such liability on his official bond shall exist in addition to the liability upon any separate bond given by him. All sums recovered for losses sustained by the account shall be deposited in that account.

The Director shall be liable on his general official bond for the faithful performance of his duties in connection with the moneys in the clearing account, the benefit account and unemployment trust fund account provided for under this Act. Such liability on his official bond shall exist in addition to the liability upon any separate bond given by him. All sums recovered for losses sustained by any one of the accounts shall be deposited in the account that sustained such loss.

The Treasurer shall maintain for such moneys a special administrative account. The Director shall maintain for such moneys 3 separate accounts: a clearing account, a benefit account and an unemployment trust fund account. All moneys payable under this Act (except moneys requisitioned from this State's account in the unemployment trust fund and deposited in the benefit account and moneys directed for deposit into the Special Programs Fund provided for under Section 2107), including but not limited to moneys directed for transfer from the Master Bond Fund or the Title XII Interest Fund to this State's account in the unemployment trust fund, upon receipt thereof by the Director, shall be immediately deposited in the clearing account; provided, however, that, except as is otherwise provided in this Section, interest and penalties shall not be deemed a part of the clearing account but shall be transferred immediately upon clearance thereof to the special administrative account; further provided that an amount not to exceed $90,000,000 in payments attributable to the surcharge established pursuant

to Section 1506.5, including any interest thereon, shall not be deemed a part of the clearing account but shall be transferred immediately upon clearance thereof to the Title XII Interest Fund.

After clearance thereof, all other moneys in the clearing account shall be immediately deposited by the Director with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to the Federal Social Security Act, as amended, except fund building receipts, which shall be deposited into the Master Bond Fund. The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. The moneys in the benefit account shall be expended in accordance with regulations prescribed by the Director and solely for the payment of benefits, refunds of contributions, interest and penalties under the provisions of the Act, the payment of health insurance in accordance with Section 410 of this Act, and the transfer or payment of funds to any Federal or State agency pursuant to reciprocal arrangements entered into by the Director under the provisions of Section 2700E, except that moneys credited to this State's account in the unemployment trust fund pursuant to Section 903 of the Federal Social Security Act, as amended, shall be used exclusively as provided in subsection B. For purposes of this Section only, to the extent allowed by applicable legal requirements, the payment of benefits includes but is not limited to the payment of principal on any bonds issued pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, exclusive of any interest or administrative expenses in connection with the bonds. The Director shall, from time to time, requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the State's account therein, as he deems necessary solely for the payment of such benefits, refunds, and funds, for a reasonable future period. The Director, as ex-officio custodian of the benefit account, which shall be kept separate and apart from all other public moneys, shall issue ~~his checks for the~~ payment of such benefits, refunds, health insurance and funds solely from the moneys so received into the benefit account. However, after January 1, 1987, no payment ~~check~~ shall be drawn on such benefit account unless at the time of drawing there is sufficient money in the account to make the payment ~~pay the check~~. The Director shall retain in the clearing account an amount of interest and penalties equal to the amount of interest and penalties to be refunded from the benefit account. After clearance thereof, the amount so retained shall be immediately deposited by the Director, as are all other moneys in the clearing account, with the Secretary of the Treasury of the United States. If, at any time, an insufficient amount of interest and penalties is available for retention in the clearing account, no refund of interest or penalties shall be made from the benefit account until a sufficient amount is available for retention and is so retained, or until the State Treasurer, upon the direction of the Director, transfers to the Director a sufficient amount from the special administrative account, for immediate deposit in the benefit account.

Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates of and may be utilized for authorized expenditures during succeeding periods, or, in the discretion of the Director, shall be redeposited with the Secretary of the Treasury of the United States to the credit of the State's account in the unemployment trust fund.

Moneys in the clearing, benefit and special administrative accounts shall not be commingled with other State funds but they shall be deposited as required by law and maintained in separate accounts on the books of a savings and loan association or bank.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

B. Moneys credited to the account of this State in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this State's account and used as authorized by Section 903. Any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in contributions or payments in lieu of contributions from amounts in this State's account in the unemployment trust fund. Such moneys may be requisitioned and used for the payment of expenses incurred for the administration of this Act, but only pursuant to a specific appropriation by the General Assembly and only if the expenses are incurred and the moneys are requisitioned after the enactment of an appropriation law which:

1. Specifies the purpose or purposes for which such moneys are appropriated and the amount or amounts appropriated therefor;

2. Limits the period within which such moneys may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

3. Limits the amount which may be obligated during any fiscal year to an amount which does not exceed the amount by which (a) the aggregate of the amounts transferred to the account of

this State pursuant to Section 903 of the Social Security Act exceeds (b) the aggregate of the amounts used by this State pursuant to this Act and charged against the amounts transferred to the account of this State.

For purposes of paragraph (3) above, amounts obligated for administrative purposes pursuant to an appropriation shall be chargeable against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

Moneys appropriated as provided herein for the payment of expenses of administration shall be requisitioned by the Director as needed for the payment of obligations incurred under such appropriation. Upon requisition, such moneys shall be deposited with the State Treasurer, who shall hold such moneys, as ex-officio custodian thereof, in accordance with the requirements of Section 2103 and, upon the direction of the Director, shall make payments therefrom pursuant to such appropriation. Moneys so deposited shall, until expended, remain a part of the unemployment trust fund and, if any will not be expended, shall be returned promptly to the account of this State in the unemployment trust fund.

C. The Governor is authorized to apply to the United States Secretary of Labor for an advance or advances to this State's account in the unemployment trust fund pursuant to the conditions set forth in Title XII of the Federal Social Security Act, as amended. The amount of any such advance may be repaid from this State's account in the unemployment trust fund.

D. The Director shall annually on or before the first day of March report in writing to the Employment Security Advisory Board concerning the deposits into and expenditures from this State's account in the Unemployment Trust Fund.

(Source: P.A. 93-634, eff. 1-1-04; 94-1083, eff. 1-19-07.)

(820 ILCS 405/2108 new)

Sec. 2108. Title XII Interest Fund. The Title XII Interest Fund shall be held separate and apart from all public moneys or funds of this State. Payments attributable to the surcharge established pursuant to Section 1506.5 in an amount not to exceed $90,000,000 shall be deposited into the Title XII Interest Fund, together with any moneys that may otherwise be directed for deposit into that Fund. No such moneys shall be paid or expended except upon the direction of the Director who, as ex officio custodian of the Title XII Interest Fund, shall expend such moneys only for the payment of interest required to be paid on advances under Title XII of the Social Security Act or for transfer to this State's account in the unemployment trust fund. Any funds remaining in the Title XII Interest Fund after payment of the interest due as of September 30, 2011, on advances under Title XII of the Social Security Act shall be transferred to this State's account in the unemployment trust fund no later than October 31, 2011.

Moneys in the Title XII Interest Fund shall not be commingled with other State funds, but they shall be deposited as required by law and maintained in a separate account on the books of a savings and loan association, bank, or other qualified financial institution. All interest earnings on amounts within the Title XII Interest Fund shall accrue to the Title XII Interest Fund. The Director shall be liable on her or his general official bond for the faithful performance of her or his duties in connection with the moneys in the Title XII Interest Fund. Such liability on her or his official bond shall exist in addition to the liability upon any separate bond given by her or him. All sums recovered for losses sustained by the Title XII Interest Fund shall be deposited into the Fund.

Section 95. Applicability. Section 1506.5 of the Unemployment Insurance Act and the changes made to Section 1506.3 of the Unemployment Insurance Act apply retroactively to January 1, 2011, except that a payment which, as of the effective date of this Act, has already been made with respect to the first quarter of calendar year 2011 pursuant to the Unemployment Insurance Act as in effect immediately prior to the effective date of this Act shall be deposited as required by the Unemployment Insurance Act as in effect immediately prior to the effective date of this Act.

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

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

At the hour of 4:24 o'clock p.m., the Chair announced the Senate stand adjourned until Wednesday, March 30, 2011, at 9:00 o'clock a.m.